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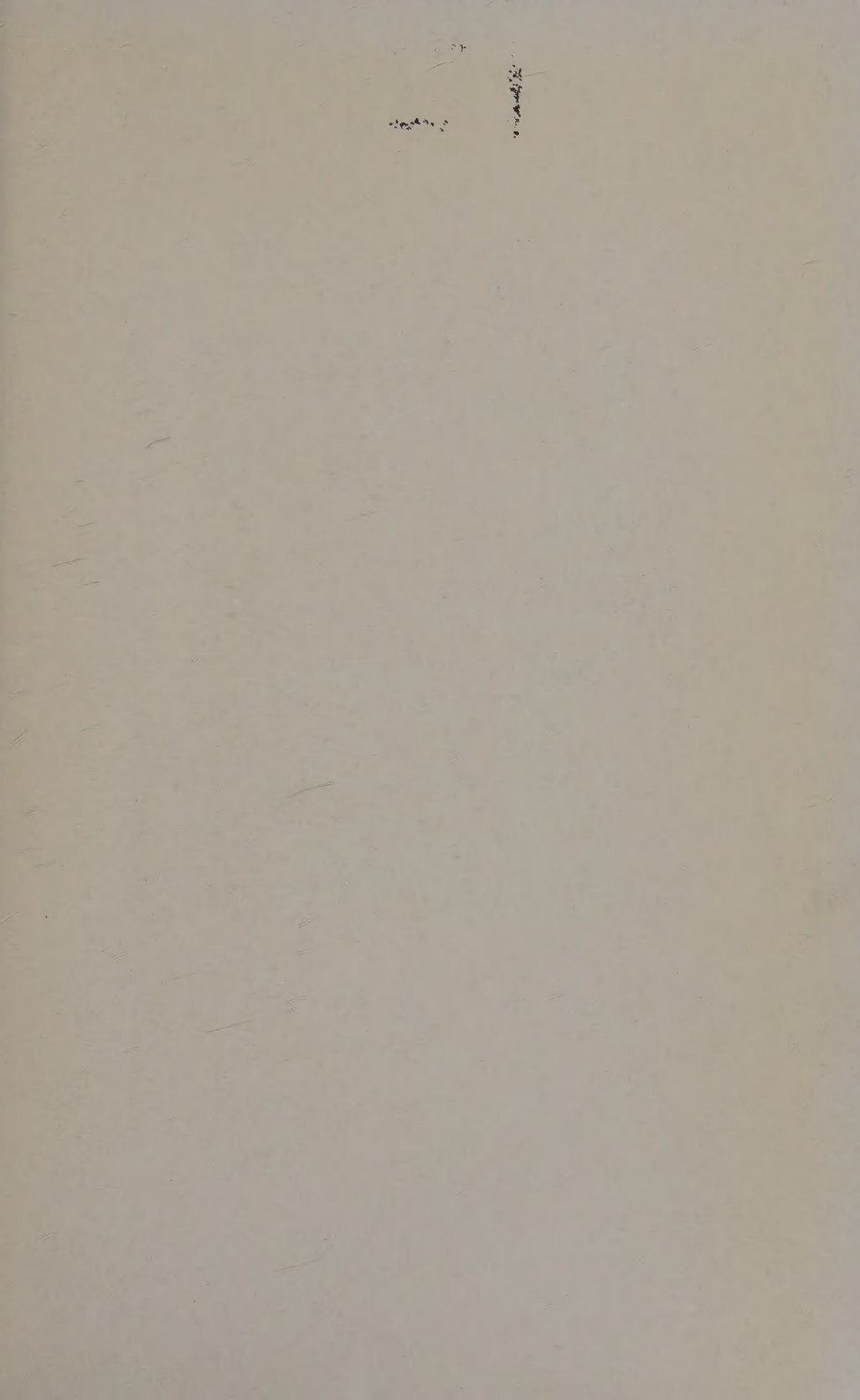
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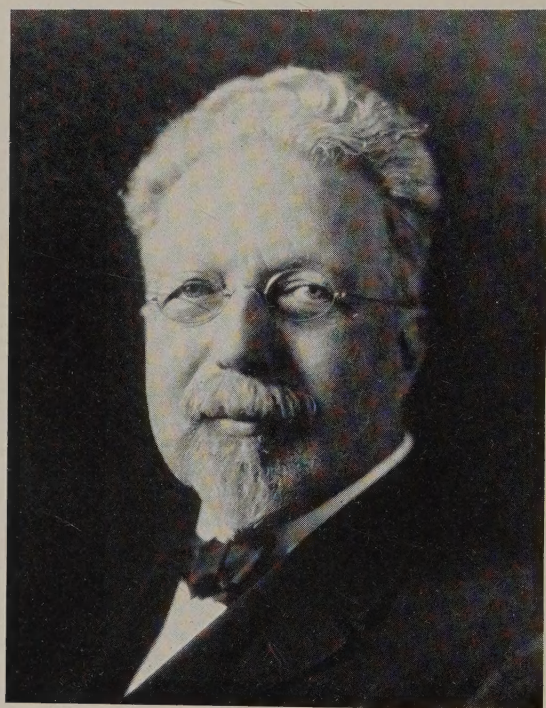
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HIS SEVENTIETH BIRTHDAY  
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# THE BOOK OF THE COVENANT

## PART III—THE HUQQIM

JULIAN MORGENSTERN, Hebrew Union College, Cincinnati, Ohio

### I

#### INTRODUCTION

THIS section of our study of the Book of the Covenant deals specifically with the two little groups of laws found in Ex. 21.12-17 and 22.17-19. These laws are few in number, but careful study of them in all their aspects will lead to results of utmost significance for the understanding of the evolution of both the law and the religion of Israel.

We have already concluded<sup>1</sup> on the ground of a considerable mass of significant evidence that the *hoq* in Ex. 21.12 is a late substitute for a *mišpaṭ* which stood in the same place originally, and which dealt with the same legal question, but which was cast in characteristic *mišpaṭ* form, and which, in all likelihood, differed somewhat from the present *hoq* in certain details of content and spirit. A part of our task in this study will be to establish this conclusion with certainty, and with this to determine the purpose of this substitution and by whom and at what time made.

We have also shown<sup>2</sup> that just as the *dabar* and the *mišpaṭ* had their characteristic and unmistakable forms, so too this particular type of law, which, tentatively, and not at all with absolute finality, as in the case of the two other classes of law, we have designated as *hoq*,<sup>3</sup> has its own characteristic and unmistakable form. It is couched invariably in short, concise, form. The protasis of the condition is expressed in the vast

<sup>1</sup> "The Book of the Covenant," II (*HUCA*, VII [1930]), 56-63.

<sup>2</sup> "The Oldest Document of the Hexateuch," (*HUCA*, IV [1927]), 92 and 95; "The Book of the Covenant," II, 22-31.

<sup>3</sup> "The Book of the Covenant," II, 26ff.

majority of cases by a participle. The apodosis in almost every case provides the death penalty for the crime in question; this is, likewise in almost every case, expressed by the forceful phrase, מות יומת. The infinitive absolute is never lacking; it seems to have intensive force and to imply that the death penalty must be executed without fail and under all conditions. Moreover, as we have seen already,<sup>4</sup> *mot yumat* seems to imply execution by, or at least under, the direct and responsible supervision of the state. It is noteworthy, too, that these *huggim* are without exception intensely individualistic; the participle in the protasis is invariably in the singular, quite as if these *huggim* deal only with questions of individual and personal crimes and with the penalties therefore to be inflicted upon the single individual, the actual criminal, alone.

## II

### THE ORIGINS OF THE HOQ

In the period following immediately upon the Babylonian Exile, as is well known, a new note was definitely heard in Jewish religious belief and practice, and with this necessarily also in its legal system. It was the note of individualism, first sounded, it would seem, by Jeremiah in his latest period of prophetic activity, and apparently with only a partial realization of the full implication of this new doctrine,<sup>5</sup> and then reaffirmed by Ezekiel<sup>6</sup> with

<sup>4</sup> *Ibid.*, 56f.

<sup>5</sup> Jer. 31.28f.

<sup>6</sup> Ezek. 3.16–21; 18; 33. Actually I find it difficult to escape the impression, amounting almost to a conviction, that Jer. 31.28f. is an editorial gloss, representing an attempt to ascribe to Jeremiah a principle or doctrine which was absolutely original with Ezekiel. (So also Volz, *Commentary*.) It is self-evident that Jer. 31.28f. has no connection whatever either with what immediately precedes or what follows. Nor has it apparently any definite antecedents or consequences in Jeremiah's thought or theology. Moreover, it is difficult to comprehend just how the principle of individualism could have suggested itself to Jeremiah. To me the attempt to account for it by stressing the fact that Jeremiah was the most personal and individualistic of the prophets (cf. Buttenwieser, *The Prophets of Israel*, 322f.) seems hardly to suffice, for in such case we must expect to find other expressions of this same principle in the prophet's utterances, and standing in direct and logical connection with

unqualified absolutism and with practical application to the problems of sin and righteousness and of the relation of the individual well- or evil-doer to God.

In the pre-exilic period a clear-cut distinction existed between the concepts of crime and sin. Crime was, of course, by its very nature largely an individual matter, a relationship between the state or, as we shall see later, the blood-avenger, on the one hand, and the criminal on the other. Only in a secondary degree and through a gradual evolutionary process by which the religion of Israel was ethicized, were crime and the individual criminal related to and taken cognizance of by Yahwe. Sin, on the other hand, as conceived of and presented in their utterances by the pre-exilic prophets, was altogether collective and national in its character and relations. Not the individual as such had direct relations with Yahwe, but only the nation as a whole. This was by virtue of the covenant which Yahwe was thought to have established with Israel at the time of the deliverance from Egypt, when He demonstrated His superiority over the gods of Egypt and took Israel, the oppressed nation, to be His own people. This covenant relation was confirmed by Israel's gradual conquest of Palestine and settlement therein; thereby, so it seemed, Yahwe had not only demonstrated still further His superior might, but had likewise fulfilled one essential element of His covenant obligation to Israel, and had shown convincingly that He had kept and would ever keep His faith with Israel, so long as Israel, in turn, would keep its faith with Him.

Accordingly, sin against Yahwe was entirely collective in character; except incidentally, as a part of the nation and as a contributor thereby to the collective sin and guilt of the nation as a whole, the individual and his sin were negligible in Yahwe's eyes. His concern was with the sin of the nation as a whole, for

their contexts. On the other hand, the principle seems to have evolved quite naturally in the mind of Ezekiel during the second period of his prophetic ministrations, after 586 B.C., as the result of his retrospective meditations upon and interpretation of divine justification and purpose in the destruction of the nation by Nebuchadrezzar and its sufferings therein and subsequent thereto. This doctrine was manifestly an answer to and refutation of the popular interpretation of the national calamity (cf. Ezek. 18.25, 29; 33.17, 20).

this alone constituted bad faith with Him, a violation of the nation's covenant obligation and, in consequence, a loosening of its covenant bond with Him. Should the nation sin too greatly or too constantly, and should its covenant bond become in consequence strained too greatly, Yahwe could, and in all likelihood would, repudiate His covenant with Israel, already rendered vain and null by Israel's irresponsible conduct, and sever all relations with the faithless people. And Israel, thus left without a god to protect and prosper it in the severe and relentless competition of nations, was doomed. Only complete destruction, national annihilation, could be its lot without Yahwe as its god. So the prophets taught, with comparatively little individual modification of the doctrine, from Amos to Jeremiah.

With the Babylonian Exile, however, three new doctrines found gradual formulation and promulgation, doctrines altogether contradictory of earlier prophetic teaching, which gave to internal religious evolution a direction entirely different from that which it had had until then, and ultimately gave birth to Judaism, as distinct from the former, national religion of Israel.

The first of these new doctrines was formulated by Jeremiah in his old age, when long, prophetic meditation and experience had advanced him far beyond the platform of Hosea, which he had upheld in his early, youthful, fiery messages of uncompromising denunciation of the people's sin and faithlessness. In his latter years, when the fires of youthful impatience and denunciation had burned low, and in their place had come the maturity, the broad vision, the wide sympathy, the patience and long-suffering, the gentle forbearance with the foibles and frailties of other poor mortals which age and wisdom bring, the realization through life-experience of the great, eternal truth that "to err is human, to forgive divine," when, too, events were shaping themselves and calamities were heaping up, and the doom and annihilation of the nation, so long affirmed by the great prophets, now at the hands of the Chaldeans, seemed just in the offing, came the prophet's supreme message, the message of the new covenant.<sup>7</sup> Conquest and devastation must come, and exile must

<sup>7</sup> Jer. 31.26ff.



follow thereon. This was Yahwe's justified and sure punishment of faithless Israel. But the conquest was not to be for complete destruction, nor the exile for doom. Instead, they were to be for discipline and correction<sup>8</sup> and spiritual regeneration. Through suffering in exile and resultant insight and understanding Israel would learn to know Yahwe and to understand His way with it as never before. And then in time, after seventy years, when the people had become fully regenerate, Yahwe would establish with it a new covenant, not like the old covenant, particularly in its latest form and expression in the Deuteronomic Code, written upon parchment and wholly evanescent, but a covenant new in form and spirit both, written upon the heart of every son of Israel and based upon complete knowledge of Yahwe and His way, a covenant eternal, never to be broken, for never again would Israel, disciplined and regenerate, be faithless to its covenant and its God. This message of the new, eternal covenant, basically contradictory of the old prophetic doctrine and message, with its new outlook of life and hope and divine purpose and spiritual achievement, opened up an altogether unplumbed avenue of religious evolution and, perhaps more than aught else, became basic in Judaism, Israel's new religion.<sup>9</sup>

<sup>8</sup> As is indicated, for example, by the significantly increasing use of the verb יסר and its derivative noun מוסר in the Biblical literature from Jeremiah on. In pre-Jeremian Biblical writings the verb is used only four times and the noun not at all. Of these four occasions in which the verb is used, three are in Hosea, with whom, of course, Jeremiah had close affinities, particularly in his early messages, and one is in Isaiah. Of the three passages in Hosea, in two (7.12; 10.10), both quite corrupt, the verb seems to be used in its primary sense, "to whip, to chastise." In Is. 8.11 the verb is used in a secondary meaning, "to restrain." Is. 28.26 is held by most modern commentators to be post-exilic. Only in Hos. 7.15 does the verb have the meaning, "to train, to discipline," and even there it has this meaning in only a strictly literal, and not at all in a figurative, spiritual sense. In Jeremiah, however, the verb occurs seven times and the noun, not used a single time in earlier writings, and seemingly therefore newly-coined, presumably to express a newly-evolving concept, occurs eight times, and in the vast majority of cases in the specific sense of "discipline, correction" (through suffering, of course). In subsequent Biblical literature both verb and noun occur quite frequently in this specific meaning.

<sup>9</sup> New in that it differed radically in spirit and doctrine from the old, national religion of Israel.

The second new and formative doctrine, which contributed immeasurably to the course of evolution of Judaism, was the concept of individualism, already referred to. To a certain extent individualism is implicit in Jeremiah's doctrine of the new and eternal covenant with the regenerate and righteous Israel; for this carries with it a twofold implication, first, that if ever thereafter there be any sin, it would and could not be on the part of the nation as a whole, but only on the part of the individual within the nation; and second, since this was to be an eternal and indissoluble covenant, a covenant which would persist forever, even though some individual Jew might sin now and then, some way had to be provided whereby that sin might be expiated adequately and the individual be restored, even as the nation had been, to a condition of perfect relationship with his god. Apparently Jeremiah himself did not contemplate such a condition of individual sin in his vision and message of the new and eternal covenant. None the less it is clear that, unless the prophet meant to affirm the absolute and infallible perfection and righteousness of the individual, something which was certainly farthest from his mind, this condition of individualism and this problem of individual expiation were basically implicit in his doctrine of the new covenant, and sooner or later, and in all likelihood quite soon, would have to assert themselves and demand solution.

However, be all that as it may, and whatever may have been the true forces which called forth the principle of individualism, the fact remains that it found definite formulation with Ezekiel and influenced immeasurably the subsequent development of Judaism. Not only crime but likewise sin were now altogether individualistic and, in consequence, required appropriate individual punishment. This gave rise to important and difficult questions. What was the proper punishment for sins which had up to this time been altogether national in character and the punishment for which, in consequence, had hitherto been entirely in Yahwe's hands and was visited by Him upon the nation as a whole? These punishments were, of course, thought to be still visited by Yahwe, or if inflicted by men, then at least inflicted in His name and at His command and in accordance with His

instructions; but they were to be visited now upon the individual instead of upon the nation. Such sins were, for example, violation of the Sabbath or blasphemy of the Deity. How this problem was met and solved will become clear shortly.

The third new doctrine which materially influenced the evolution of Judaism, particularly during the early post-exilic period, as we shall see, seems to have received definite formulation and practical application somewhat later than the other two doctrines, even though its beginnings seem to have been almost coincident with theirs. It was the doctrine that Yahwe had actually taken up His permanent residence in the midst of Israel, in the Temple at Jerusalem. His very presence in the midst of the people was the sure guarantee of protection and prosperity.<sup>10</sup> But also His presence in the Temple, in the midst of the land and the people, naturally made sanctuary, land, and people sacred, and sacred with a sanctity which had to be guarded at all costs; for in a defiled sanctuary, or in the midst of a defiled land or people, Yahwe could not consent to dwell.<sup>11</sup> This belief that Yahwe had taken up His permanent abode in the Temple could, at the very earliest, have had its beginnings only in the after-effects of the Deuteronomic Reformation.<sup>12</sup> Certainly, it was not present in the mind of the Deuteronomic reformers themselves, for had it been, its implications for their movement in particular would have been so direct and significant that they could not possibly have avoided, even had they been so inclined, some, and even frequent, allusion to it in their legislation.<sup>13</sup>

<sup>10</sup> Cf. Zech. 2.9; cf. also Ezek. 8.12; 9.9.

<sup>11</sup> Cf. Lev. 20.3; Num. 35.33f.

<sup>12</sup> Cf. "The Book of the Covenant," I (*HUCA*, V [1928]), 39ff.

<sup>13</sup> This statement may seem surprising in view of the phrase oft-repeated in Deut. 12-18 as well as in 26.2 and 31.11, *המקום אשר יבחר יהוה לשכון* (or *לשום*) *■ שמו*. It is our contention, however, which at the appropriate time and place we shall endeavor to substantiate, that the original stratum of Deuteronomy (D1), the work of prophetic reformers in 621 B. C., employed merely the first half of the phrase, *המקום אשר יבחר יהוה* (בו) (cf. 12.14, 18, 26; 14.25; 15.20 16.7, 15, 16; 17.8, 10; 18.6. 31.11 is, it must be admitted, a secondary passage; but inasmuch as it merely quotes literally 16.16, the fact that it employs only the first half of the full expression, just as do the older passages, does not qualify the above conclusion in the least), and that the second half of

Far more likely, the concept of the residence of Yahwe in the Temple evolved as a natural and eventual outgrowth of the

the phrase, לשכן (or לשום) שמו שם, is in every case the insertion of post-exilic Deuteronomic editors. The first half of the phrase, "the place which Yahwe will choose," means merely the sanctuary at Jerusalem, in contrast to all other local shrines throughout the country (cf. in particular, 12.5, המקום אשר אח כל המקומות, especially contrasted, as it is, with המקומות שבתים in v. 2; contrast also v. 14 with v. 13), the destruction of which is commanded. In other words, "the sanctuary which Yahwe will choose" is merely the one sanctuary in the entire land which will remain undestroyed and in which the legitimate worship of Yahwe will be centered. There is in it not the slightest implication of Yahwe's actual residence in the sanctuary.

In contrast to this, the second half of the clause, "in which to put, or to cause His name to dwell," gives to the entire phrase an altogether new meaning, viz. that Yahwe will actually, and in the most literal sense, take up His abode in the sanctuary at Jerusalem. On the one hand, the use of the expression שמו, "His name," as a substitute for the Deity Himself is post-exilic, the result of distinct post-exilic theological doctrine and usage. (The proof of this assertion is another matter which must await a more favorable occasion.) It accordingly indicates a post-exilic date for this phrase. On the other hand, as we have learned ("The Tent of Meeting," *JAOS*, 38 [1918], 133ff.; "The Oldest Document of the Hexateuch," 119ff.), the ancient name for the old tent-sanctuary of Israel seems to have been *אהל מועד*, "tent of meeting," the tent-sanctuary in which the Deity was not conceived at all as actually dwelling, but in which His divinatory priest, his *כהן* (cf. Lammens, *L'Arabie Occidentale avant l'Hégire: Le culte des bétyles et les processions religieuses chez les Arabes préislamites*, 106-112) remained constantly, and at the entrance to which he was met by the Deity and received direct revelation from Him. This name and this concept of the sanctuary and its nature persisted even into the post-exilic period and into the Priestly Code. (Cf. in particular Ex. 29.42f.; 30.36, where the door of the "tent of meeting" is still the place where Yahwe meets with Moses, His divinatory priest, in the latter's capacity as the representative of Israel. This is in significant contrast to the later and more distinctive Priestly concept of Yahwe dwelling permanently in the holy of holies, the innermost part of the tabernacle, and altogether inaccessible to Israel except once each year, on the New Year's-Atonement Day, when the high-priest alone, and after proper purification rites, and with all manner of ritualistic safeguards, might appear before Him.) In the Priestly Code, however, the doctrine that Yahwe had actually taken up His permanent residence in the innermost part of the sanctuary, in Israel's very midst, found definite expression (cf. Ex. 25.8; 29.45f. and *passim*) and became absolutely basic to its theological and ritualistic system, as we shall see. Accordingly, in the Priestly Code the old name of the sanctuary, *אהל מועד*, "tent of meeting," gradually gave way to the new designation, *משכן*, "dwelling-place." This



centralization of the worship in the Temple. Its first definite and systematic expression seems to be in Ezekiel's picture<sup>14</sup> of the departure of Yahwe, in the form of the כבוד יהוה, from the doomed sanctuary and His subsequent return in the same form to the rebuilt and purified shrine. This same picture is implicit in Hag. 1.8<sup>15</sup> and in Zech. 1-8. From this time on it constituted a significant influence in the religious practice and in the evolution of law in Israel.

The practical problem which it suggested was how to effectually safeguard the absolute sanctity of sanctuary, land, and people, so that Yahwe's continued residence in their midst might not be jeopardized and that the people might accordingly continue to enjoy His favor and protection. This was, of course, a ritualistic problem pure and simple. Its solution gave rise to an intensely ritualistic attitude in the religious theory and practice and in the legislation and daily life of the people. One significant and illuminating expression of this tendency we have already noted in the post-exilic Deuteronomic borrowing from the ancient Southern *mišpaṭ*-corpus of old *mišpaṭim*, prescribing the death penalty, and the reinterpretation of these executions as having

significant term, of unmistakably post-exilic, Priestly origin, is conclusive evidence that the entire doctrine that Yahwe had actually taken up His residence in the Temple at Jerusalem is itself of post-exilic origin, that it could not have been present at all in the minds of the D1 legislators, for in that case they would assuredly have known and employed the significant term משכן quite frequently. From this it follows almost necessarily that the second half of the Deuteronomic phrase, (לשם or) אשר יבחר יהוה לשכן, must likewise be of post-exilic origin; cf. also Ezra 6.12; Neh. 1.9; Ps. 74.7. Jer. 7.12a<sup>β</sup> is unquestionably a gloss, as is indicated by the awkwardness of this second relative clause introduced by אשר; with it cf. also II Sam. 7.6; I Chron. 17.5.

<sup>14</sup> Chapters 1-11 and 40-48. The actual Ezekelian authorship of the greater part of these chapters is, however, open to serious question (cf. Hölscher, *Hesekiel: Der Dichter und das Buch; Beiheft z. ZAW*, 39 1924). It is therefore by no means improbable that a very considerable portion of these chapters, or at least of 40-48, should be assigned to the period of the end of the Exile or, better, the beginning of the post-exilic period, immediately antedating the erection of the second Temple, about 520-517 B.C.

<sup>15</sup> Cf. my article "On Leviticus 10.3," in *Oriental Studies Dedicated to Paul Haupt*, 99.

an expiatory effect in behalf of the people, contaminated by the crime which had been committed in their midst.<sup>16</sup> We shall have, in the course of this present study, a number of additional instances of the application of this same principle.<sup>17</sup>

<sup>16</sup> Cf. "The Book of the Covenant," II, 138-147.

<sup>17</sup> One of the most interesting and significant, though unquestionably unforeseen effects of the new doctrine that Yahwe had taken up His permanent abode in the innermost part of the sanctuary, i. e. in the second Temple at Jerusalem, and thus, by His very presence in their midst, sanctified sanctuary, land and people with an absolute ritual and spiritual holiness, was a gradual weakening of the significance of the traditions of the exodus from Egypt and of the establishment of the covenant between Yahwe and Israel at Sinai. Certain it is that in the early post-exilic theology and literature, and especially in Priestly writings, these two traditions play a role of steadily decreasing import. Whereas to the pre-exilic prophets these two events and the traditions which grew up about them were the constant and convincing evidences of Yahwe's supreme power over all other deities and of His choice of Israel and benignant purpose towards it, so long as it would remain faithful to Him through loyal conformity to the terms of its covenant with Him, in the theology and literature of the early post-exilic period these events and traditions tend more and more to become merely incidents of Israel's early history, outstanding incidents of more than passing import, it is true, but none the less incidents no longer possessing the basic and compelling significance which they had enjoyed in the earlier period.

Thus, for example, the tradition of the exodus, which still to post-exilic Deuteronomic editors constituted, though by a patently artificial and forced hermeneutic, the basis for the observance of the Sabbath (Deut. 5.15), has been supplanted in Priestly theology and writing by the tradition of creation in six days and Yahwe resting upon the seventh (Gen. 1.1-2.4; Ex. 20.11; 31.17).

Even more indicative of this altered point of view is the fact that whereas in the pre-exilic literature, and still throughout all Deuteronomic theology and writings, the revelation of the Decalogue and the establishment of the covenant between Yahwe and Israel upon the basis of this little code of fundamental laws were the crowning events of the entire episode at Horeb-Sinai, to the Priestly writers these seem to be mere incidents of altogether secondary significance. Instead of this entire tradition of the Decalogue and covenant as the climax of Israel's meeting with Yahwe at Sinai and of His revelation to it, the Priestly theologians and legislators have substituted their patently fabricated tradition of the revelation by Yahwe to Moses of the detailed pattern of the tabernacle, about to be built so that Yahwe might take up His permanent residence in Israel's midst (Ex. 25.8), and with this, its indispensable supplement, the revelation of an extensive and detailed body of ritual law, providing for the institution of a proper priestly body and its

The detailed investigation of the origin and evolution of the *hugqim* may begin somewhat far afield. Lev. 24.10ff., recounts a

functions, a well-rounded sacrificial system and a general scheme of ritual purification of sanctuary and people, in whose midst Yahwe had chosen to dwell. And all this to the end, not of a mutually binding, and, *per contra*, mutually dissoluble covenant, but instead, that Israel might be unto Yahwe, and this, as is implied throughout the Priestly writings, with expected permanence, "a kingdom of priests and a holy nation" (Ex. 19.6a; cf. Is. 61.6).

This changed point of view and this altered doctrine carried with them theological implications and consequences of far-reaching significance for the subsequent evolution of Judaism. It contributed very much, perhaps more than ought else, to the gradual weakening and ultimate cessation of true prophecy in Israel. So long ■ Israel's relation to its Deity was thought to rest upon a covenant, in theory mutually dissoluble, a covenant relationship which, with pre-exilic prophecy developing steadily, was interpreted more and more from an ethical and spiritual standpoint, and so long too ■ Israel regarded Yahwe as somewhat remote from it, as dwelling upon His old mountain out in the desert (I Ki. 18.3-14; cf. "The Oldest Document of the Hexateuch," 32-39), or, in a later stage of theological evolution, as dwelling in heaven and coming into the Temple at Jerusalem only once each year, upon the New Year's Day, to judge the nations, and particularly Israel, and to pronounce their destiny for the year just beginning (Is. 6; cf. "The Book of the Covenant," I, 48-51), the prophet was the natural agent and prophecy the normal method of divine revelation. But when the principle became firmly established that Yahwe had taken up His permanent abode close at hand, in Israel's very midst, that therefore the approach to Him must be through established priestly channels, and that the consultation of Him and ascertainment of His will was, on the one hand, a necessary, and, on the other hand, a comparatively simple matter, through the formal technique of an ancient and ostensibly revived, but actually a new, pseudo-, oracle (see below, pp. 70ff.), then quite naturally the priest supplanted the prophet, and the consultation of this pseudo-oracle took the place of prophecy ■ the established method of determining the divine will; and to a large, though by no means absolute, degree, questions of ritual superseded problems of ethical import as the chief content of divine revelation. In consequence prophecy languished and gradually disintegrated and ultimately became largely a matter of apocalyptic, eschatological speculation. And at the same time the affirmation of the basic and irrepressible ethical and spiritual element in Judaism tended more and more to become the charge of the non-priestly (I purposely avoid the term anti-priestly, for in the main this would be too strong and inaccurate a term, at least for the period with which we are dealing), lay leaders of the Jewish community.

And still another significant consequence of the new, priestly, theological doctrine; as we have just seen, with the new belief that Yahwe was actually

most interesting circumstance. It represents what is unquestionably a fictitious instance of blasphemy. A certain man, son

dwelling in Israel's midst, the old doctrine of the covenant and its implications became greatly weakened. Yahwe's mere presence in its midst was a constant and sufficient reminder to Israel of its relations and obligations to Him and of the rewards and the national and individual fortune which must ensue from the faithful discharge of these obligations. The constant prophetic threat of the ultimate termination by Yahwe of this covenant relationship was no longer needed to hold Israel faithful to its obligations to the Deity. In contrast thereto, the new doctrine of Yahwe's permanent presence in Israel's midst emphasized, as it were, the positive and happy side of Israel's relationship to its God. And besides, had not Jeremiah himself already proclaimed that after seventy years of exile the old covenant would be terminated, supplanted completely by a new and eternal covenant, never to be dissolved? Small wonder therefore that the old doctrine of the covenant lost in Priestly theology very much of its former compelling significance and survived chiefly as a somewhat vague reminiscence, artificially reinterpreted as a series of covenants made by the Deity with mankind, or with chosen sections or groups of mankind, at epochal moments in the world's history, beginning with creation (Gen. 1.28; 9.8-17; 17.1-14; Ex. 6.2-4) and culminating in the covenant of the priesthood (Num. 25.10-13) with Aaron, or rather with Phineas and his descendants.

And, a natural consequence of this gradual waning of the theological import of the tradition of the covenant at Sinai, and of the ascendancy in its stead of the Priestly tradition of the tabernacle sanctuary and of Yahwe's dwelling therein in Israel's midst, with the resultant ritual holiness of sanctuary, land and people and the urgent necessity of constantly maintaining these inviolate through minute ritualistic precept and practice, the Pentateuch now came to supplant the older Hexateuch as the authoritative record of Yahwe's first relations with Israel. The story of the conquest of Canaan lost its original import as the record of Yahwe's fulfillment of His covenant obligation to Israel, and therefore as an essential and integral part of this tradition. It became now merely another incident of Israel's early history, comparable in almost every way to its history under the Judges and the early kings, profane history, as it were, and no longer the record of Yahwe's direct dealings and immediate revelation of His will and purpose with Israel. The central and dominant thought now was the revelation of the law, the Torah, predominantly ritualistic in character, designed to safeguard Yahwe's continued and beneficent presence in Israel's midst, and to emphasize the Priestly theory and doctrine that this entire body of law was of ancient origin and unquestionable authority, that it had been revealed in its entirety by the Deity to Moses. The figure of Moses thus became doubly significant. All pristine and basic revelation was through him. Everything since then was merely reinterpretation and adaptation of Mosaic law to existing conditions. All primary



of an Israelite woman and of an Egyptian father,<sup>18</sup> in a quarrel with a fellow-Israelite blasphemed the name of the Deity. This

revelation and authority centered in Moses, and with his death the period of primary revelation came to an end, the body of basically authoritative law was complete, with naught to be added to it and naught to be taken therefrom, and the period of Yahwe's most direct contact with Israel was terminated. The death of Moses marked the end of this first and the beginning of an altogether new period. For this cogent reason the Pentateuch, the Torah *par excellence*, came to supplant the earlier and truer literary unit, the Hexateuch. All this, and much more, was an outgrowth of the new, post-exilic, Priestly doctrine of Yahwe's residence in Israel's midst.

<sup>18</sup> On the surface this seems to have all the earmarks of a *beena* marriage (cf. my "Beena Marriage [Matriarchat] in Ancient Israel and Its Historical Implications," *ZAW*, 6 [new series] [1929], 91-110; 8 [new series] [1931], 46-58), for not only is the man in question the offspring of an Israelite mother and an Egyptian father, dwelling, as the text states explicitly, in the midst of Israel, but apparently the offspring of this union is regarded as being more closely related to his mother's people than to those of his father, and in particular as being subject to the same restrictions and obligations with regard to Yahwe as was every full-blooded Israelite. However, all these indications of *beena* marriage are merely on the surface. On the one hand, it would be difficult indeed to imagine the Priestly writers even conceiving of a *beena* marriage in Israel, or having any adequate knowledge thereof, particularly after the far-reaching marriage reforms legislated in Lev. 18 and 20 (H). On the other hand, there is good reason to believe that these P writers purposely represented the offender in this narrative as not a full-blooded Israelite in order to mitigate his offense somewhat. Moreover, it is reasonable to suppose that they went still further and purposely represented him as the offspring of an Egyptian father, in accordance with the post-exilic, Deuteronomic law (Deut. 23.8-9), with which they must have been fully acquainted and which they undoubtedly accepted, that the descendants of a mixed marriage with an Egyptian or an Edomite could enter into the community of Israel only in the third generation. Therefore, being only the immediate offspring of such a marriage, this man was not yet a full Jew, but only a semi-Jew at the best; or rather, far more likely, he was regarded, just as his father undoubtedly was also, as a גר, "a sojourner," a potential proselyte, in Israel. In fact this is quite certainly the implication of the narrative, as is indicated by vv. 16b and 22. For it is clear that the distinction drawn in these two verses between the גר and the אורח, the Jew by birth, has point here only in its bearing upon this narrative, and that it has no relation whatever to the intervening laws. And inasmuch as v. 22a merely repeats as a generalization what is already stated sufficiently in v. 16b and with much more direct bearing upon the narrative proper, it follows that v. 22 is in all likelihood RP, necessitated no

transpired while Israel was still in the desert and under the leadership of Moses. The nature of the crime was self-apparent; the proper punishment therefor, for the individual sinner, of course, however, was seemingly as yet unknown. But since the

doubt by the insertion of the unrelated laws in vv. 17–21 into this narrative; for unquestionably vv. 17–21 are secondary here. Furthermore v. 22b would seem to follow more directly upon v. 16b than upon v. 22a, as it does at present. From these considerations it is clear that these P writers had in this narrative not the slightest conception of *beena* marriage, but that they purposely represented this grave sin as committed by a גר, or a semi-גר, in order not only by the narrative proper to lay a foundation, through a tradition of oracular revelation, for their law that the sin of blasphemy must be punished by expiatory execution, but also, secondarily, to enforce their general principle that the גר is subject to the same basic obligations toward Yahwe as is the אזרח (cf. Ex. 12.49; Num. 9.14; 15.15f., 29).

Moreover, these considerations give an indication of the probable approximate date of this narrative and its attendant legislation. On the one hand, it is obviously dependent upon Deut. 23.8–9, and this is unquestionably post-exilic legislation (cf. Bertholet, *Die Stellung der Israeliten und der Juden zu den Fremden*, 142–144). On the other hand, this narrative must be older than the marriage reforms of Ezra and Nehemiah; for after the principle of absolute exclusivism, which motivated these reforms, had become firmly established, and which, of course, nullified completely, for a time at least, the law in Deut. 23.8–9, it would have been almost impossible for authoritative Priestly legislators to even conceive of a narrative such as this, the background of which consisted of a mixed marriage represented as altogether natural and proper. This would indicate that this narrative with its dependent legislation is in all likelihood the product of the early part of the third quarter of the 5th century B. C. Presumably too, the related narratives, with which we shall have to deal, in Num. 9.6–14; 15.32–36; 27.1–11; 36.1–12, as well as the institution of pseudo-oracular revelation, basic to all these narratives, belong to this same period.

In passing it may be remarked that the designation, *midrash*, which Biblical scholars, following Wellhausen (*Composition des Hexateuchs*,<sup>3</sup> 163; although Wellhausen himself does not here use the term *midrash*, but merely compares these Biblical narratives to the parables in Luke), frequently apply to the Priestly narratives in Lev. 24.10–14+23; Num. 9.6–14; 15.32–36; 27.1–11; 36.1–12, is not at all appropriate. These narratives are in no sense *midrashim*, younger than and illustrating the laws with which they are associated, as these commentators claim, but are, as we shall see, of a common origin with the laws themselves and designed, through a characteristic Priestly fiction, to establish the basis and authority of these laws in an assumed oracular revelation to Moses.

crime had been committed and the consequences thereof were greatly to be feared and therefore to be zealously guarded against, it was imperative that the question of the proper punishment for this particular sin be determined immediately. This could be in only one way, by referring the question to the Deity Himself and securing from Him an authoritative and absolute decision, naturally, through the agency of the oracle. Accordingly, the offender was placed in custody while the customary oracular procedure was performed.

Unquestionably, this narrative means to imply that this incident, represented as transpiring in the wilderness, was the very first case of blasphemy of the Deity, and that for this reason alone the proper penalty for this very serious sin was as yet unknown. This fiction of the Priestly Code, however, is somewhat difficult to comprehend, for apparently the Naboth story in I Ki. 21, certainly an older piece of writing than this Priestly narrative in Lev. 24.10ff., offers a specific case of blasphemy of the Deity, with exactly the same punishment inflicted upon the supposed offender as is here provided by decision of the oracle for seemingly the very first case of this offense. And if the proper punishment for blasphemy of the Deity was known already to the authors of the Naboth story, then what need was there for these Priestly writers to represent the punishment for this sin as unknown and to coin this fictitious narrative to meet their purposes? Or, even assuming for the moment that this narrative is historically authentic, what was the particular reason for these Priestly writers to record, with such detail, the first instance of the commission of this particular sin and the manner in which the proper punishment for it was determined, since after all this last alone mattered and was apparently already well known in their day?

The answer to this important question will be reached through a detailed analysis of this entire passage, Lev. 24.10-23. It is clear at first glance that this passage contains quite a bit of parallel or duplicative legislation as well as considerable material which has no connection whatever with the main theme and which is obviously of secondary character. Moreover, while it is certain that the narrative itself in vv. 10-14+23 is from P, some

of this legislation here bears all the earmarks of H.<sup>19</sup> Unquestionably this H stratum is older than the P material here. And of particular significance for our study is the fact that one of the *mišpaṭim* of H, viz., v. 15, deals with this same sin of blasphemy and provides for it, just as it does for the other offenses with which it deals, what seems to be a specific punishment, or what is at least the equivalent thereof. This *mišpaṭ* reads: Any man who blasphemes his God shall "bear his sin." By "his God" Yahwe is meant, of course. The question is as to the exact meaning and implication of *וְנָשָׂא חַטָּאתוֹ*, "he shall bear his sin." This entire discussion revolves about this one question. It is necessary therefore to investigate this matter thoroughly before we may advance further in our study.

It is quite clear that at the bottom of the expression *נָשָׂא חַטָּאתוֹ* or its synonyms, *נָשָׂא עֲוֹן* and *נָשָׂא פֶשַׁע*, lies the primitive concept of sin as something tangible and concrete, a condition or quality of being which rests upon a person in the form of a heavy, disturbing burden, bearing evil consequences, and which may in certain ways be transferred to some other person or object,

<sup>19</sup> So also Dillmann, Baentsch and Bertholet (see commentaries). However, on the one hand we have just shown (see preceding note), that vv. 17–21 must be secondary here, and on the other hand, we have already analyzed these verses in considerable detail ("The Book of the Covenant," II, 77–81) and have established that in their present form they are the result of extensive Priestly editorial expansion of two simple laws, themselves of Priestly origin and couched in the characteristic *hoq* form, or at least something which approximates it very closely, *מִכָּה נֶפֶשׁ בְּרֵמָה יִשְׁלַמָּה* and *מִכָּה נֶפֶשׁ אָדָם מִוֶּחַ יוֹמָה*. There is actually little indication of H authorship in these verses, despite the contention of the majority of Biblical commentators to that effect. It is true that *עֲמִית* in v. 19 is found most frequently in H; but it also occurs twice in Lev. 5.21 (Pt) and once in Zech. 13.7; therefore its use here by RP need not be too surprising. The form of the conditional sentence, introduced by *אִישׁ כִּי*, is, as we have shown ("The Book of the Covenant," II, 123f.), characteristic not merely of H, but of all of P. And the expression *נֶפֶשׁ חַטָּאת* in vv. 17, 18 occurs only in Deuteronomic (Deut. 19.6, 11; 27.25 [this may even be RP]) or Priestly (Num. 35.11, 15, 30; Josh. 20.3, 9) writings, but never in H. Moreover, its use here in v. 17 suggests direct relationship with the P section of Num. 35 (see below, pp. 93ff.), with the content and aim of which chapter this law has direct affinity. We may therefore conclude unhesitatingly that vv. 17–21 are RP, and show no indication whatever of H origins or connections.

who in turn carries it and assumes the consequences thereof.<sup>20</sup> The transfer of sin in this way from the sinner to some other person or object or even to the Deity Himself, relieves the sinner of all possible effects thereof; it is therefore tantamount to expiation and consequent forgiveness of sin. But if the sin be not transferred and remain constantly resting upon the sinner, so that he must continue to bear it himself, it means that the sin is unexpiated and unforgiven and that the sinner must endure the consequences thereof whenever, for as long and in whatever manner they assert themselves.

Accordingly, the expression נָשָׂא אֶת־חַטֹּאתַי and its two synonyms have two distinct meanings of diametrically opposite import, but which are, none the less, perfectly comprehensible. They can mean "to forgive" or "not to forgive," depending entirely upon the person of the subject. If the subject of the verb is the Deity or some person or object other than the sinner himself, then the expression means to forgive, for it then means literally that the subject of the verb has lifted the burden of sin from the sinner and transferred it to himself, and that, now freed from the burden of sin, the sinner has become innocent once again and is forgiven.<sup>21</sup> But if, on the other hand, the sinner

<sup>20</sup> Cf. my *The Doctrine of Sin in the Babylonian Religion* (MVAG, 1905, 3), 1-6; also Gen. 4.13; 50.17; Ex. 10.17; 23.21; 28.38; Lev. 10.17; 16.22; 19.17; Num. 30.16; I Sam. 15.25; 28.25; Ezek. 4.4-6; 36.15; Mic. 6.16 (read עָמַם for עָמַם). In all these passages the subject of the verb is some individual other than the sinner himself, or some object such as the scapegoat, as in Lev. 16.22, but is not the Deity Himself.

<sup>21</sup> Gen. 18.24; Ex. 32.32; 34.7; Num. 14.18; Is. 2.9; Hos. 1.6; 14.3; Mic. 7.18f.; Ps. 25.18; 32.5; 85.3; 99.8; Job. 7.21. It is of considerable significance for our study that every one of these passages is, without a single exception, and in contrast to many of the passages listed in note 20, post-exilic. For Gen. 18.24 this is established by Wellhausen and Gunkel; for Ex. 32.32 by both Holzinger and Baentsch. For the late date of Ex. 34.7, and with it also of course, of Num. 14.18, manifestly dependent upon it, see "The Oldest Document of the Hexateuch," 19f. The late date of Is. 2.9, is recognized by practically all commentators, as is also that of Mic. 7.18f. Marti has adduced strong and convincing evidence that both Hos. 1.6b $\beta$  and 14.3 are post-exilic, and this conclusion is established convincingly by the considerations with which we are dealing here. The late date of the passages from Psalms and of Job 7.21 is recognized quite generally.



himself is the subject of the verb, just as here in Lev. 24.15, it means, of course, that the sin is unexpiated and unforgiven, and that the sinner is accordingly still guilty and must therefore continue to bear his grievous burden and to suffer all the dread consequences thereof.<sup>22</sup>

<sup>22</sup> Ex. 28.43; Lev. 5.1, 17; 17.16; 19.8; 20.17, 19, 20; 22.9; 24.15; Num. 9.13; 14.34; 18.23, 32; Josh. 24.19b; Ezek. 14.10 and *passim*. All these passages too are recognized by Biblical scholars as being either exilic or post-exilic, for all the passages from the Hexateuch belong to P, with the single exception of Jos. 24.19b; and its dependence too upon Ex. 34.7, and with this its late date, are unmistakable.

From all this evidence it is clear that the entire concept of divine forgiveness of sin through the Deity's removing it, even though figuratively, from the sinner, and taking it upon Himself, is at the very earliest, exilic, and was quite unknown in the pre-exilic period; for had it been current then at all, it is impossible that some reference thereto should not be found in the pre-exilic prophets. All this is easily comprehensible. For in the pre-exilic period, as we have already intimated, the only sin of which Yahwe took actual and practical cognizance was the sin of the entire nation, Israel; and such sin, ignored perhaps by Yahwe if its import was not too grave, was never actually forgiven, in the sense that the Deity lifted it off the sinning nation and took its burden upon Himself; it was instead, if sufficiently grave to be taken cognizance of at all, carefully considered by Him and interpreted as faithlessness toward Him on the part of the sinning nation, and therefore as ample ground for His abrogating His covenant relationship with Israel and giving it over to destruction. Accordingly the new concept of divine forgiveness manifestly could have had its genesis only in the general exilic and post-exilic concept of individualism and of individual sin and punishment. To this last the concept of divine forgiveness was but the natural and necessary corollary. In the light of these logical considerations, it might even have been possible to conclude by purely inductive processes that the doctrine of divine forgiveness of sin, both national and individual, could not have arisen before the time of Jeremiah, or, speaking more generally, before the Babylonian Exile; this conclusion the above-cited references corroborate absolutely.

Moreover, it is clear that as this concept developed theologically and ritually, and its full import came to be perceived, a definite ritual procedure evolved which tended to ensure in a practical way the greatly desired end of divine forgiveness of sin. This end was achieved, as Ps. 32.5 indicates clearly, through confession of sin, through not concealing it, but making it known fully to Yahwe, and thus transferring, as it were, the burden of the sin from the sinner to the Deity (cf. also Prov. 28.13). From this it was but a short step for such formal confession of sin to become an established ritual institution, an integral part of every purification ceremony resulting from a moral

What are these consequences? The natural inference would be that the consequences of sins such as these are not ordinary human penalties and punishments, to be inflicted in accordance with the prescribed considerations of human laws and statutes, but that instead they are consequences or results of the sin, which come in the natural course of things or else are sent by the Deity and in His own peculiar, divine way. This inference is completely borne out by the Biblical evidence. On the one hand, in not a single case where any of these three expressions is used is punishment by human agencies or in accordance with human methods of execution or other penalties provided. And on the other hand, a few specific cases state definitely just what the effect of the burden of sin thus remaining upon the sinner will be. According to Ex. 28.43; Lev. 22.9; Num. 18.22f., 32 the effect of the sinner bearing his own sin in this manner is death, death which comes apparently from no other natural cause, and which, in an earlier stage of religious evolution, would undoubtedly have been thought to result from a violation of extreme and rigid taboo, but which, in the stage of religious evolution mirrored in these passages of the Priestly Code, is undoubtedly thought

offense (cf. Lev. 5.5; 16.21; 26.40; Num. 5.7). And by a still further extension, based upon the principle gradually evolving in the post-exilic period (cf. Gen. 8.21a<sup>γ</sup>, unquestionably here a late and disturbing, theological gloss), that man was naturally and inevitably sinful, both individually and collectively, a principle seemingly quite unknown, or at least never positively formulated in the pre-exilic period, a formal, conventional confession of sins, sins largely imaginary and stereotyped, sins both of the individual and of the nation and its traditional ancestors, became in the late post-exilic period an integral and invariable introductory part of every prayer (cf. Dan. 9.4, 20; Ezra 10.1; Neh. 1.6; 9.2, 3; II Chron. 30.22), quite as if such confession of sin, with the supposedly resultant forgiveness by the Deity, were necessary to purify the petitioner and enable him to approach his God in proper manner and with reasonable expectation that his prayer would be heard. Such seems to have been the origin of the peculiar ritual institution of confession. In Judaism it never played more than an incidental role, even in the complex ritual of the Day of Atonement, as the references, comparatively few in number, in the Biblical and Rabbinic literature indicate. In orthodox Christianity, however, as is well known, with its emphasis upon the doctrine of the natural and inevitable sinfulness of man, confession of sin and its expiation thereby became fundamental doctrines.

to come directly from Yahwe Himself in His own time and in His own, mysterious, for humans totally incomprehensible way. Of such deaths emanating from Yahwe those of the two sons of Aaron<sup>23</sup> or of Dathan and Abiram or of Korach and his band<sup>24</sup> may in a way be regarded as fairly typical.

However, the punishment of death did not always ensue immediately upon the commission of the sin; it might instead come only gradually and after more or less delay, but always in a manner which would be recognized beyond all question as emanating from Yahwe. In this connection Num. 14.29-37 is particularly illuminating. These verses too are from P. They tell that the false spies suffered immediate death at the hand of Yahwe for their sin, a crime obviously of first magnitude in Yahwe's eyes. But the people who had hearkened to them and had murmured against Yahwe, seemingly an offense also of great, but none the less comparatively of only secondary magnitude in Yahwe's eyes, were to "bear their sin;" and as consequence thereof they were all, the entire generation, doomed to die in the desert; but the period of their deaths was extended over forty years, corresponding to the number of days required for the spying expedition; thus it was made clear that this punishment was because of their lack of faith in Yahwe and their murmuring against Him on that occasion.

Moreover, it is clear that the implication here, just as in all the other instances where the death sentence from Yahwe follows immediately upon the commission of the sin, is that this is a more or less premature death. The sinners impliedly have not lived out the fullness of days, which would have been their portion otherwise, had the sin in question not been committed. Even though protracted over a period of forty years, the manifest implication is that the generation of the exodus, which perished in the desert, died, each one, more or less before his time, that because of this grievous sin each person who had murmured against the Deity, and who had originally been destined by Yahwe to enter Canaan, forfeited a certain number of the

<sup>23</sup> Lev. 10.1-2.

<sup>24</sup> Num. 16.26-35.

appointed years of his life as well as entrance into the Promised Land.<sup>25</sup> The principle underlying this concept is that which is expressed so frequently in the Biblical literature, especially in the literature of the period beginning shortly before the Babylonian Exile and continuing well into the post-exilic age, viz., that length of days, especially when coupled with the precious privilege of residence within Palestine, the land which Yahwe had given unto Israel as an everlasting possession, and in which He Himself had taken up His residence, was the supreme reward for individual righteousness, while shortening of days, in a measure corresponding to the degree of the sin or crime, and perhaps attended by other misfortunes and calamities, difficult to bear, and definitely recognized as emanating from the Deity, was the inevitable punishment.<sup>26</sup>

<sup>25</sup> The number forty, though based upon older tradition (cf. Amos 2.10; 5.25), was emphasized here beyond all doubt in order to make clear that all persons from twenty years of age and up (v. 29), who had joined in the murmuring against Yahwe, died at an age which meant the forfeiture of some years of what must have been generally regarded in the post-exilic period as the normal span of life for ordinary mortals, viz. seventy years (cf. Ps. 90.10; but cf. the somewhat older J tradition in Gen. 6.3b, which fixes the normal span of life as one hundred and twenty years [for this same belief in Arabic folk-lore, cf. Stephan, "Animals in Palestine Superstition," *JPOS*, IX { 1929 }, 89, note 2], and in Is. 65.20, which fixes it at one hundred years). Moreover, the implication here is, of course, not that all these people died at one time, but that instead they died gradually during this forty-year period, with only those who had actually been the youngest among them, those only twenty years old, surviving until the very end of the period, but with every one of them having forfeited thus a specific number of his appointed years. These implications here are clearly recognized in the rabbinic tradition that all the members of the generation of the exodus, condemned here to death in the wilderness, died just when they reached the age of sixty years, i. e., on the one hand, at the age of 20 + 40 years specified in these verses, and, on the other hand, ten years before the completion of the normal seventy years, which presumably they would have attained, and during the last ten years of which they would have entered the Promised Land, had it not been for this sin; cf. also the interesting rabbinic tradition bearing upon the death in the desert of the generation of the exodus, which I have cited in full in my "Two Ancient Israelite Agricultural Festivals," *JQR*, VIII (new series) (1917), 34f.

<sup>26</sup> Ex. 20.12; Deut. 4.26, 40; 5.16, 30; 11.9; 22.7; 30.18; 32.47; cf. also Is. 65.20; Ps. 91.16; Prov. 3.2; 10.27; Eccles. 8.13.

Furthermore, with this principle definitely in mind, a number of expressions, by no means uncommon in the Biblical literature become fully comprehensible. The first of these is *מֵת* (or *נָּוֶה*) *בְּחַטָּאוֹ* (or *בְּעֵוֹנוֹ*). This means quite obviously "to die because of, or in the state of one's own sin," a sin which had not been expiated nor forgiven, and for which therefore this death was indubitably the divinely sent punishment, unquestionably therefore a premature death. This is certainly the implication of the statement in Num. 27.3 that Šelofhād was one of those who had died during the period of desert sojourn, and that he had died there because of his own sin. This is the implication also of Josh. 22.20. It is even more obvious in the argument of Ezek. 3.18-19 and its parallel passage, 33.8-9, that if the prophet had been charged by the Deity to warn a certain sinner of the character and the ultimate consequences of his evil way, but failed to perform this duty, so that, in consequence, the sinner, unwarned, died because of his sin, then the blood of that man rested upon the prophet, quite as if he himself had caused the man's death; for the unquestionable implication of this argument is that the death of this sinner at just this time and under just these conditions might have been averted had the prophet fulfilled his divinely appointed mission. Manifestly, therefore, this is an untimely, premature death, the inevitable punishment for the sin committed.<sup>27</sup> This too is beyond all doubt the principle underlying the argument in Jer. 31.29 and its development in fuller and more specific form in Ezek. 18, and particularly vv. 17-20.

The second expression, the full meaning of which becomes clear from these considerations, is *זָכַר* (or *פָּקַד חַטָּאָה*) *אֶתְּ*. The clear implication of these terms is that Yahwe does not always visit upon sinners or upon the sinful nation the consequences of his or its sin immediately upon commission thereof, but that instead He waits frequently until the appropriate moment therefor arrives.<sup>28</sup> But although there may be delay, and

<sup>27</sup> Note also a similar implication in Lev. 5.1.

<sup>28</sup> Ex. 20.5; 32.34; 34.7; Deut. 5.9; Is. 43.25; 64.8; Jer. 6.15; 14.10; 50.31; Hos. 1.4; 2.13; Amos 3.14; note in particular the implication of Gen. 15.16 that not until four generations later will the iniquity of the Amorites be complete and sufficient to justify Yahwe in destroying them and settling Israel in their place.



the sinner may think for the time that he is immune from punishment, none the less Yahwe's way is sure; there is no escape, and in His time the destined punishment is sure to come. And until that time the sinner, whether individual or nation, must bear his or its burden of sin and await the inevitable consequences thereof which come from Yahwe Himself.

With these considerations in mind we may return to our passage in Lev. 24. The meaning of the H *mišpaṭ* in v. 15 now becomes perfectly clear, "Any man who blasphemes his God shall bear his sin." It can mean only this, that the punishment for the extreme crime of blasphemy is death, but manifestly death not imposed by men in accordance with human principles, statutes, and methods, but death, eventual and sure, emanating unmediated from Yahwe Himself. It can mean naught other than this. But if so, then it is clear that this *mišpaṭ* does not take one very important consideration into account, viz., the defiling effect of a sin such as this upon the sacred character of the people at large, as well as of the land and the sanctuary in which Yahwe was thought to dwell. Either this is here not a consideration whatever, or else the implication of this law is that death at the hand of Yahwe follows immediately upon the commission of the sin; for otherwise the sinner would continue to dwell in the midst of the people and the land and presumably have unrestricted access to the sanctuary, all of which, however, he would by his very presence defile so utterly that Yahwe's holy being could not possibly continue to abide there longer and to bestow blessing and protection upon the people. As has been said, the implication is either that to these H legislators the consideration of the defilement of people, land, and sanctuary had no meaning nor force, probably because it had not yet evolved, at least not in all its aspects, at the time of this legislation, or else it was expected that death at the hand of Yahwe would ensue immediately as the proper punishment for this great sin. Actually this latter alternative is not very probable; for in all likelihood there were at least occasional, if not frequent, instances of blasphemous utterances; and unless divine punishment invariably followed immediately upon the commission of the sin, the people would naturally lose faith ultimately in a deity

thus seemingly impotent to punish a grave offense against himself, and the law itself would be invalidated; but this consideration is inconceivable. Undoubtedly therefore the first alternative is far more probable; and granting this, we are enabled to fix a relative date for the evolution of the idea of the ritual holiness of sanctuary, land and people, sanctified because of Yahwe's having taken up His abode therein; for we must conclude that it was later than at least this particular legislation of the Holiness Code.<sup>29</sup>

However, be all that as it may, having established definitely the meaning of the H *mišpaṭ* in Lev. 24.15, we can see beyond all possibility of doubt wherein the P narrative in vv. 10-14+23 with its implied legislation differs from it. This gives a fictitious

<sup>29</sup> Or perhaps, reversing the argument, since we must associate this concept of Yahwe taking up His abode in the sanctuary with the building of the second Temple and with the related prophetic utterances of Haggai and Zechariah, if not also of Ezekiel, since, in other words, we are able to associate this concept with a definite date, say 521-517 B.C., we may conclude that at least this particular piece of H legislation must be somewhat older than that time.

Also careful consideration shows clearly that all this legislation, which leaves the punishment of individual sin committed against Yahwe to Yahwe Himself (cf. also below pp. 33ff.), represents a transition stage between the older, national collectivism and post-exilic, fully developed individualism. According to the principle of national collectivism, which was held by all the pre-exilic prophets, Yahwe Himself, alone and unaided, punished the nation as a whole for sins committed against Him. Under the principle of individualism, as it evolved in the post-exilic period, as we have already seen ("The Book of the Covenant," II, 138-147), and as we shall soon see even more clearly (below, pp. 55ff.), the punishment for sins against Yahwe committed by individuals was provided in accordance with rigid and specific laws, and was inflicted by men, usually by stoning, and under the supervision of the state or the community. In this legislation, where the sin against Yahwe is committed only by individuals, without any consideration whatever of the community as a whole, but the punishment therefor is still the task of Yahwe Himself, and the idea of human punishment of such sins is clearly not yet thought of, it is clear that we have a transition stage between the older and the younger concepts. It is clear too that this transition stage must have evolved shortly after the promulgation by Ezekiel (chapter 18) of the doctrine of individual sin and punishment. This too would point to a time near or shortly after the close of the Babylonian Exile, and in all probability somewhat earlier than the completion of the second Temple in 517-516 B. C.

instance of blasphemy, and purposely represents it as having occurred in the desert, during Moses' lifetime, in order to give strong color to its implication that this was the very first instance of blasphemy in Israel after the revelation on Sinai. In consequence the proper, divinely appointed penalty for this grievous crime was not yet known. Yet why should these Priestly legislators have raised this question and supported it by the fiction of this specific first instance of this sin, when this particular sin had already been dealt with directly and the specific punishment therefor provided by earlier H legislators? This question is even more pertinent than the parallel question with relation to the Naboth story. The answer is obvious. Manifestly these P legislators were dissatisfied with the H legislation concerning this particular crime and found it out of accord with and inadequate to meet their views. Therefore they devised new legislation conforming to their own ideas and needs, and, in full accord with their established practice,<sup>30</sup> by a simple fiction they represented this legislation specifically as having emanated from the desert period and from Moses himself, as having been communicated to him by the oracle, precisely in accordance with the prescriptions in Ex. 18.19-27.<sup>31</sup> They found the legislation of H inadequate, it is clear, just because it failed to take into consideration the principle, basic with them, of the absolute holiness of sanctuary, land and people and the consequent disastrous, defiling effect which the commission of a sin so heinous as blasphemy must have. To them it must have seemed inadequate and inexpedient to leave the punishment of such a crime to Yahwe alone, with the attendant uncertainty as to just when

<sup>30</sup> Cf. in particular the fiction of the ascription of the origin of the post-exilic priesthood itself and of its authority and ritualistic system in the post-exilic period, not to Zadok, in the days of David and Solomon, the actual, historical ancestor of the Jerusalem priesthood, but to Aaron, in the days of and through inauguration by Moses at divine behest.

<sup>31</sup> Notice how Deut. 1.13-18 ignores the old, oracular element in this narrative and represents Moses as judging through superior wisdom alone. In contrast to this, as we shall see (below, pp. 70ff.), P was much more sympathetic with the idea of the oracle. Not impossibly therefore it was these very P editors who transferred Ex. 18.13-27 from its original to its present place (see "The Oldest Document of the Hexateuch," 128ff.).

and how Yahwe would send His punishment. Until such time, and there was no telling when and how long deferred that might be, the sinner would go unpunished in their midst, and, leaving other unfortunate consequences out of consideration, such as, for example, a weakening of faith in and a questioning of the power and purpose of Yahwe by certain free-thinking and unbelieving individuals, of whom no doubt there were in the community a fair number, even in these times of rigorous and exacting faith,<sup>32</sup> the sinner would by his very presence and contact defile sanctuary, land and people still further. And who, even among those of strongest faith, could know with absolute certainty that Yahwe would actually punish this sinner with certain death? Instead might not Yahwe, thus affronted, wash His hands, as it were, not only of this hardy sinner, but also of the entire people, particularly since they too had been defiled by the sin, by the very, even though involuntary hearing of the blasphemous words, and, allowing this sin itself to go immediately unpunished, withdraw instead from the sanctuary, land, and people, and leave them to their sure fate, a people without a god to protect and prosper them?

Accordingly, acting upon the principle of the residence of Yahwe in their midst and the resultant sanctity of people, land, and sanctuary, and with the imperative necessity of safeguarding this sanctity at all costs, it was impossible for these Priestly legislators to abide longer content with the H legislation for blasphemy. They required a definite and drastic law which would command the immediate death of the blasphemer, his execution, not at the hand of Yahwe, but immediately, with as little delay as possible, and at the hands of the people who had been defiled by his blasphemous words, and who therefore needed purification from this defilement, in other words, an execution of the blasphemer with expiatory effect for the people. And in order that their legislation might be regarded as sufficiently authoritative not only to be regarded as valid in itself, but as supplanting the older H legislation which had no doubt governed all cases of blasphemy since its promulgation and up to this time,

<sup>32</sup> Cf. Ezek. 18.25, 29; 33.17, 20.

they represented their legislation as coming specifically from Moses and as having been formulated by him at divine behest at the time of the commission of the very first sin of blasphemy. In this way they gave, no doubt, full validity to their law.

Actually, it is in just this respect that this particular law of P, based upon this fictitious narrative, differs from the older legislation of H. It treats the sin of blasphemy primarily from the standpoint of its defiling effect and therefore as demanding an extreme punishment, viz., death, and in a manner which should serve the purpose of expiation. Therefore, it provides that the blasphemer shall be put to death, that the execution shall take place outside the camp, in other words in the very same place in which other, kindred expiatory rites were performed,<sup>33</sup> that the execution shall be by stoning,<sup>34</sup> and that in particular those persons who had heard the blasphemous utterances and, impliedly, had therefore been doubly subject to defilement, almost, as it were, participants in the sin, must purify themselves by laying their hands upon the head of the sinner and thus loading their sin upon him, in precisely the same manner as in the annual Yom Kippur ritual the high-priest loaded the sin of himself, his household and all Israel upon the scapegoat before sending it forth to perish.<sup>35</sup> The expiatory character of this execution is beyond all question.

A moment's thought suggests, moreover, that the narrative, extremely interesting and illuminating though it is, standing by itself is incomplete and insufficient. Manifestly, the purpose of the Priestly writers in framing and recording this fictitious narrative was to represent it as the natural occasion when the law, intended to govern all subsequent cases of blasphemy, was determined and formulated. Just this is the implication of the statement in v. 12, that they placed the sinner in custody until the proper punishment could be ascertained from Yahwe Himself.

<sup>33</sup> Ex. 29.14; Lev. 4.12, 21; 8.17; 9.11; 16.27; Num. 5.3, 4; 19.3, 9; 31.10; II Ki. 23.4, 6.

<sup>34</sup> For the import of this method of execution see "The Book of the Covenant," II, 87-91, 212f.

<sup>35</sup> Lev. 16.21f.; cf. also Ex. 29.15; Lev. 4.4, 15, 24, 29, 33; 8.14; II Chron. 29.23f.



Manifestly we have here an instance, or perhaps better, a fictitious instance, of the consultation of the oracle. We would accordingly expect the narrative to reach its climax and conclusion in the formulation of a law in much this form, **מקלל יהוה מות יומת**, coupled perhaps with the provision that the execution should be by stoning, and perhaps also that just before the execution all those who had heard the blasphemous words should lay their hands upon the head of the condemned sinner in order to purge themselves of the defilement which had come to rest upon them in double measure because of having heard the blasphemous utterance. This procedure is prescribed for this particular instance in v. 14; but the generalization thereof in the form of a law is missing.

Instead, in v. 16, we have a law, somewhat related, it is true, yet which can not be by any means the law which the narrative itself implies and which must unquestionably have stood here originally, and for which this present law must therefore have been substituted. This present law reads as follows: Whoever pronounces Yahwe's name shall be put to death; the entire community shall stone him; stranger and native alike, if he pronounces the divine name,<sup>36</sup> shall be put to death. There can be no question that this is exactly what this law says.<sup>37</sup> The verb **נקב**, particularly when used with **שם**, has precisely this meaning and naught else. It is clear, therefore, that this law reflects a comparatively late stage of religious evolution in Judaism in the middle post-exilic period, when the developing conception of Yahwe's sanctity and transcendence had given rise to the principle that even His name was too august and sacred to be pronounced vainly or profanely, and when, in consequence, the so-called second commandment of the Decalogue, originally of an entirely different meaning, had come to be reinterpreted to express this new thought. Manifestly, this

<sup>36</sup> LXX and Vulg. insert **יהוה**; Sam. reads **השם** and Pesh. **שמי**.

<sup>37</sup> So LXX, Targ. Onk. and the majority of mediæval commentators; cf. Kalisch, *Commentary*, II, 529. Jepsen (*Untersuchungen zum Bundesbuch* [*Beiträge zur Wissenschaft vom Alten und Neuen Testament*], 85) suggests that in v. 16a **נקב** was originally **קבב**. He holds, moreover, that **נקב** really means "one who curses," and therefore correlates Lev. 24.16a with Ex. 22.19.

present law, couched in the form of a *ḥoq*, bears to this reinterpreted second commandment precisely the same relation which the law which we would expect here bears to the older H *mišpaṭ* in v. 15b, in that it provides the punishment at human hands and the manner of execution for any one who commits this particular sin.

It is easy to perceive what considerations could have suggested the substitution of this present *ḥoq* for the law which undoubtedly stood here originally. On the one hand, the mere pronouncing of the actual name of Yahwe had come to be regarded as an offense of equal magnitude and attended by consequences as grave as blasphemy itself. In fact, in accordance with the new principle of the absolute prohibition of the pronouncing of the divine name, particularly by lay individuals,<sup>38</sup> the mere violation of this principle was actually tantamount to blasphemy, since the unauthorized and irresponsible utterance of the divine name could, accordingly, have been for no worthy and approved purpose and must have been thought displeasing to the Deity and inciting His wrath. Consequently, the substitution of the present *ḥoq* for the *ḥoq* which stood here originally amounted to no more than restating the old law in terms of the new and more inclusive thought. Actually, it could not have seemed a new law at all, but merely a slight reformulation of the original law in order to make its later and broader meaning more unmistakable.

Furthermore, it is equally apparent just how this change suggested itself and came to be made. Through a reinterpretation of ויקב in v. 11, as if it came, as it well could, so far as its grammatical form is concerned, from the stem נקב instead of from the stem קבב, from which it really is derived, and by the simple insertion of the words אֵת הַשֵּׁם, the import of the narrative was changed from that of actual cursing and blasphemy to that of mere utterance of the ineffable name. Thereupon, it was a simple matter to change the *ḥoq* which stood here originally, and which as we have seen, dealt with the sin of blasphemy, to the present

<sup>38</sup> And even by Levites and priests, other than the high-priest; and even by the latter except only once each year, in the solemn ritual of Yom Kippur.

*hoq*, which deals instead with the sin of pronouncing the divine name.<sup>39</sup> This change was effected by substituting for the original *מקלל* the present wording *שם נקב*. In this way the present text of vv. 10-16+23 was evolved. Unquestionably the original text of P here read simply *יהוה מות יומת*. And this, of course, provides the exact *hoq* which we would expect to be the outcome of the oracular procedure described in vv. 10-16.

Another and most significant parallel to this instance of the evolution of ritual law in Israel is provided in the interesting narrative recorded in Num. 15.32-36. This relates what is obviously a fictitious instance of Sabbath desecration, viz., the case of a man found gathering wood upon the Sabbath. This case too is represented as transpiring in the desert period. Manifestly the point of view here is practically the same as that in the secondary Priestly passage in Ex. 16.22-30. Here this case of Sabbath violation is also represented as the very first instance of this grave crime, happening, impliedly, not very long after the promulgation of the basic Sabbath law; and just because it is the first instance of Sabbath desecration the penalty for this sin or crime is not yet known. In consequence it is imperatively urgent to ascertain immediately just what the proper punishment for this violation of one of the fundamental principles of Yahwe-worship and one of the basic conditions of Yahwe's relationship with Israel should be. There is, of course, only one possible procedure, viz., to consult Yahwe, undoubtedly by means of the oracle, and obtain the decision from Him. The divine decision is given, and in accordance therewith the offender is put to death. The execution takes place outside the camp; it is by means of stoning, and the entire community, i.e. every individual member thereof, participates in the execution. Obviously this too is no ordinary execution for a simple, human crime. Measured by all the standards which we have established, this is a typical expiatory execution. Beyond all doubt the

<sup>39</sup> In this connection it is interesting and illuminating to note that Mishnaic legislation (Sanhedrin, VII, 5) effectually combined both the content and the spirit of the earlier and the later Biblical laws by providing that the blasphemer did not become guilty until he had actually pronounced the forbidden divine name.

underlying idea is that the sin of Sabbath desecration has defiled the entire community; consequently the death of the offender purges it of its sin and restores it to a condition of ritual purity and perfect relationship with Yahwe.

The answer of the Deity, communicated through the oracle, is significant, מות יומת האיש. And, quite obviously, the implication is that from this particular instance of Sabbath desecration and its divinely ordained punishment a general principle or law, likewise regarded as of divine origin and covering all future cases of Sabbath desecration by individuals, was deduced. Otherwise this narrative would have no import whatsoever. The form of this law is not given here, but from the specific use of the significant expression מות יומת in v. 35 we may well infer that this law would have been, and no doubt actually was, definitely formulated as מחלל השבת מות יומת, in other words as a typical *hoq*.

All this is simple and perfectly comprehensible. Clearly this narrative with its implied legislation parallels Lev. 24.10-16+23 closely both in form and purpose. And in one other even more significant characteristic it parallels Lev. 24.10-16+23, so much so in fact that the parallelism between these two passages becomes practically complete, and permits the drawing of important conclusions.

As has been said, the implication of the Priestly narrative in Num. 15.32-36 is that, since this is represented as the very first instance of Sabbath desecration, the proper punishment for it is not yet known. This is, however, surprising, for the Holiness Code had already made provision for this very offense in its legislation in Ex. 31.14b $\beta$  that whoever does any work upon the Sabbath shall "be cut off from the midst of his people." Here H clearly attempts to provide a specific punishment for this extremely grave offense. In fact, measured by the standards of H, this is the gravest offense against Yahwe which the individual could possibly commit, for H represents the Sabbath as the very sign of Yahwe's intimate, personal relationship with Israel;<sup>40</sup> and

<sup>40</sup> So also Ezek. 20.12, 13, 16, 20, 24. It is significant that in this chapter the prophet still conceives only of collective national punishment for the

naturally to disregard this was equivalent to disregard of Yahwe's entire relationship with Israel and with every individual Israelite.

various offenses against Yahwe which he enumerates, and has apparently not yet arrived at the concept of individual punishment for such sins and crimes. Presumably therefore this utterance of the prophet is older than the H provision of Ex. 31.14b $\beta$  (although careful analysis of the entire book suggests with great probability that these and all other references to the Sabbath in Ezekiel are secondary, the product of a late revision by the prophet of his earlier utterances, or, not improbably, glosses, not by the prophet himself, but coming from near the end of the exilic period). This confirms our conclusion that it was not until shortly after the beginning of the Exile that the concept of individual responsibility to Yahwe and of individual sin and, in consequence, of individual punishment for sins and crimes against Him, began to supplant the older concept of national and collective sin and punishment. Apparently too this transition from the older concept to the younger, with all the implications of the latter, was not sudden and immediate, the result of the conscious formulation of a new and significant theological doctrine and its forthright and systematic application to all the many problems and situations upon which it touched necessarily, but was rather, as was to be expected, slow and gradual. Not all the sins and crimes against Yahwe which could possibly, and under the new doctrine had of necessity to, be viewed and judged in their individualistic aspect, could be foreseen and enumerated in advance. It took quite a long time and much actual, living experience to determine all these and then to formulate the appropriate laws governing the various specific cases. This was the task and achievement of the age from Ezekiel, or even from Jeremiah, through H, to the post-exilic Deuteronomic and Priestly legislators. Apparently the law in Deut. 13.2-6, which we have ascribed to the very end of the pre-exilic or the early exilic period ("The Book of the Covenant," II, 128f.), was one of the very first laws to be devised prescribing the death penalty for a grave, individual sin against Yahwe. This was perfectly natural, since the offense in question, false prophecy leading to apostasy, was so markedly individualistic in character that the moment the principle of individual responsibility and punishment was formulated, this particular crime would inevitably be one of the very first to be adjudged in this manner. As we have seen, Jeremiah himself already considers this particular crime from its purely individualistic aspect.

Still another matter of interest, and not improbably even of some significance, arises from the comparison of the references to the violation of the Sabbath in Ezek. 20.12, 13, 16, 20, 24 with the law in Ex. 31.13b $\beta$ , 16-17a. In both passages the Sabbath is represented as the sign of Yahwe's covenant with Israel. This fact indicates emphatically that Ex. 31.13, 14b $\beta$ , 16-17a must be H and can not be P; for in P it is the circumcision which serves as the sign of the covenant between Yahwe and Israel (Gen. 17.11), while the Sabbath, instituted already at creation, and presumably therefore as an



The question here is, just what is the specific meaning of the oft-cited punishment of "cutting off from the midst of the people"?

From Ex. 31.14b it might be inferred that this peculiar and vague expression implies death, for it is coupled with the explicit injunction, couched in the characteristic *hoq* form, that whoever defiles the Sabbath shall surely be put to death. However, this conclusion from this one passage would be unjustified, for we shall see that the words מַחֲלִיל מוֹת יוֹמָת are an interpolation here, and, furthermore, that they supply the very *hoq* which must have climaxed the narrative in Num. 15.32-36, but which is now missing there.

The determination of the meaning of the expression, "cutting off from the midst of the people" may be begun by considering Ezek. 14.8-11. The prophet deals here with the questions of Yahwe's attitude toward the man who approaches a recognized prophet with the petition that he practise the prophetic office in his behalf, but for an end which means improper, idolatrous worship and consequent faithlessness to Yahwe, and likewise of Yahwe's attitude toward the prophet in case he obeys the man's behest. Both sinners are threatened with destruction at Yahwe's

institution to be observed by all men in the worship of Yahwe as a universal God (Gen. 2.2f.), bears nowhere in P, so far as we can see, the character of the sign of a covenant of any kind.

Moreover, it is worthy of note in this connection that in both H (Ex. 31.13b) and Ezekiel (20.12) the character of the Sabbath as a sign is intended for the guidance of Israel, that they might know thereby that it is Yahwe (and no other god) who takes them as His particular people. (This and naught else must be the basic meaning of the verb קָרַשׁ in the *pi'el*, describing in both Ezekiel and H Yahwe's relation to Israel.) On the other hand, in P the sign is definitely intended to remind, not Israel, but Yahwe Himself of the obligations which He has assumed through the covenant in question (cf. Gen. 9.13-16). This is quite the opposite purpose to that which characterizes the sign of the covenant in Ezekiel and H. Just what considerations may have brought about this radical reinterpretation of the import of the sign of the covenant between Ezekiel and H on the one hand and P on the other, it is difficult to determine at just this moment. Undoubtedly, however, it was the result of radically changing theological doctrine during this momentous period, and in particular of P's concept of the nature and import of Yahwe's covenant with Israel, greatly modified from that which earlier Biblical writers had held (cf. above, note 17).

hand. Of the prophet the text says, והשמדתיו מתוך עמי ישראל, "I shall destroy him from the midst of My people, Israel," and of the man himself the text says, והכרתיו מתוך עמי, "I will cause him to be cut off from the midst of My people." Quite obviously, the two expressions are synonymous. The latter, therefore, implies the complete destruction of the sinning man, but in no wise through human agencies, but altogether at Yahwe's own hand. This interpretation is confirmed, even though confirmation is hardly necessary, by the continuation of the thought in v. 10, "and they shall bear their guilt; as the sin of the prophet, so is the sin of the inquirer"; for we have seen already what the implication of נשא עון is, viz., punishment for sin against Yahwe by Yahwe Himself and in His own time. Clearly, then, הכרית מן, with Yahwe as the subject of the verb, implies destruction at Yahwe's hand and in His own time and way, because of the sin committed against Him; it is, in other words, as used by Ezekiel, apparently a complete synonym of נשא עון or חטא. This interpretation is confirmed fully by the use of the same term הכרית מן in Ezek. 21.8 and also in Amos 2.3 with reference to destruction at Yahwe's hand by the sword, and in Amos 1.5, destruction by exile.

In one other respect Ezek. 14.9 is of significance for this study. It deals with the question of the punishment of the faithless prophet and specifies that this punishment will be extreme and certain, but likewise that it will be altogether at Yahwe's hand. This, too, is the explicit thought of Jeremiah, as stated clearly and repeatedly in 14.15; 27.15; 28.15-17; 29.3-32. In every case punishment is visited upon the faithless or false prophet, but only at Yahwe's hand. This is in significant contrast to the provision of Deut. 13.2-6, a *mišpaṭ* which we have already considered carefully,<sup>41</sup> and because of various considerations, have concluded that at the very earliest it could not have been formulated before 608 B. C., and may well have been formulated even somewhat later than that date and must therefore belong to the late pre-exilic or early exilic period and consequently to a secondary stratum of D.

<sup>41</sup> "The Book of the Covenant," II, 128ff.; cf. also the preceding note.

The case there stated practically parallels that with which Ezek. 14.8-9 deals, viz., that of the faithless prophet who influences the people to non-Yahwistic, idolatrous worship. But there, in significant contrast to the principle set forth by Ezekiel, which, as we have seen, merely reaffirms the thought generally current in his day, viz., that the punishment of the faithless or false prophet comes from Yahwe, Deut. 13.2-6 prescribes execution by the state for this prophet. Manifestly, this Deuteronomic legislation pictures a later stage of religious and legislative evolution than do the passages from Jeremiah and Ezekiel. Unwilling, undoubtedly for cogent reasons, to let the punishment for this grave sin rest in the hand of Yahwe alone, the necessity is obviously felt by these Deuteronomic legislators of providing for the certain and likewise the immediate punishment of the false prophet, and that too with the extreme punishment, death. And as the Deuteronomic editorial refrain in 13.6b, "and thou shalt purge the evil from thy midst," indicates, this execution of the false prophet had, or at least acquired eventually, a positive, expiatory character.<sup>42</sup>

This procedure in Jeremiah and Ezekiel, contrasted with that of Deut. 13.2-6, is significant. It illustrates an interesting stage in the evolution of the principle of individualism, and shows conclusively how difficult was that particular transition in this evolutionary process by which the principle became established that sins committed by the individual against the Deity, the punishment for which had originally been relegated to the Deity alone, came in time, in response to the concept that Yahwe was dwelling in the midst of people, land, and sanctuary, and that these must therefore be guarded at all costs against ritual defilement, to be regarded as something more than a sin against Yahwe alone. It shows how these sins came to be regarded as having a distinctly social aspect, viz., in their defiling effects, with implied, grave consequences, upon the people, and how they came, therefore, to be regarded further not merely as sins but also as crimes, for which sure, extreme, and immediate punishment by human agencies must be provided, viz., the death penalty, with its implied expiatory effect.

<sup>42</sup> *Ibid.*, 141-147.

There can be no question that the expression *הכרית מן* has in the Priestly Code, at least in its older strata, precisely the same meaning as in Ezekiel, viz., death at the hand of Yahwe. This is evidenced particularly by Lev. 23.29f., where *ונכרתה (הנפש ההיא)* *והאבדתי את הנפש ההיא מקרב עמה* is in correlation with *עמה*.<sup>43</sup> Likewise, in Lev. 20.2-6 *עמו* *והכרתי אותו מקרב עמו* is equated, even though seemingly through editorial processes,<sup>44</sup> with the infliction

<sup>43</sup> Perhaps it would be more accurate to say, "seems to be in correlation," and this for two reasons; (1) because the *nif'al*, *ונכרתה*, is used here, and not the *hif'il*; and (2) because actually v. 29 deals with the disregard of a positive command, viz. to afflict oneself upon Yom Kippur, while v. 30 deals only with the express violation of a negative command, viz. not to do any work upon that day; and it is by no means impossible, nor even improbable that the P legislators may have regarded the latter as the more heinous sin, since it implied open and purposed violation of the basic sanctity of the holy day, while the former implied merely a neglect or disregard of the most extreme detail of its ritual observance. They may well therefore have provided a more severe or more immediate and certain punishment for the latter offense than for the former. This conclusion is confirmed by the fact that in several additional passages (Gen. 17.14; Ex. 12.15, 19; Num. 9.13; 14.30f.; 19.13, 20), all coming from P or RP, and not one from H, and in all of which the *nif'al*, and not the *hif'il*, is used, the punishment of "cutting off" is prescribed for offenses of a negative character, particularly for failure to carry out scrupulously some specific ritual institution or ceremony such as circumcision or sprinkling with the ashes of the red heifer. It would seem from this evidence that the Priestly legislators definitely prescribed the death penalty for the purposed violation of a positive command, but were content to leave the extreme punishment for the mere neglect to carry out some ritual institution in the main to the Deity Himself (cf. also note 52.).

<sup>44</sup> It is readily apparent that in Lev. 20.2-5, v. 3a is a disturbing element. In the light of the evidence which we have gathered thus far, and will gather still further in the course of this investigation, it is clear that v. 3a, with its provision that Yahwe Himself will "cut off the Molech-worshiper from the midst of his people," contradicts absolutely and unharmonizably the provision of v. 2, that the Molech-worshiper shall be put to death, as an expiatory execution, through being stoned by the people at large. Unquestionably v. 3a interrupts the logical connection between v. 2 and v. 3b. This original connection becomes self-apparent when we realize that v. 3b accounts for the necessity of the execution of the Molech-worshiper, viz. in that through his act he defiled Yahwe's sanctuary, in which, of course, Yahwe was conceived as dwelling, and thereby likewise profaned Yahwe's holy name (whatever the specific meaning of this last phrase may have been). Clearly therefore the literary unit here is vv. 2, 3b, 4-5, and v. 3a is a gloss. On the other hand,

of the death penalty, though at the hands of human executioners, but with the very explicit reservation that, if these human executioners do not function, then Yahwe Himself will intervene and cut off not merely the offender, the Molech-worshiper himself,

inasmuch as we have established, or at least are in the process of so doing, that the punishment of "cutting off by Yahwe" represents an earlier stage in the evolution of the institution of individual punishment for ritual sin during the exilic and early post-exilic periods than the punishment of ritual, expiatory execution through stoning at the hands of the people at large, we can hardly conceive that the gloss in v. 3a can be later than the law proper into which it has been inserted. Unquestionably the law proper is from P. The simplest solution of this problem, suggested in fact by the very presence of this law in an H setting, is that H itself dealt originally and in just this place with the problem of Molech-worship and provided for it the punishment of "cutting off by Yahwe," a form or theory of punishment which was apparently characteristic of H. Later Priestly legislators, however, feeling the inadequacy of this punishment for an offense so grievous and of such defiling character, in the manner of these Priestly editors substituted for the original H law their own law, that which we have here, providing ritual, expiatory execution of the Molech-worshiper through stoning at the hands of the people at large. (Merz, *Die Blutrache bei den Israeliten*, 113, reaches quite the opposite conclusion.) In quite characteristic manner, however, they did not suppress the original H law completely. V. 3a thereof survived as a disturbing and contradictory element in the full law. Still later Priestly legislators or editors, anticipating, or even confronted by the possibility that the people at large may have refused, or perhaps actually did refuse, to stone such a Molech-worshiper to death, were constrained to deal with this extremely difficult and embarrassing situation in the only way possible, by referring to Yahwe Himself the ultimate punishment, not only of the Molech-worshiper himself, but also with him of those who had refused to execute him in accordance with prescribed Priestly law, and who had thus, as we have said, practically made themselves endorsers of and even participants in his sin, and to prescribe for all of them the older punishment of "cutting off by Yahwe," which, for the individual offender, they had suppressed in favor of the more immediate and drastic human execution. Under the circumstances they could do naught else; in this situation they could conceive of no fitting and practicable human punishment whatever. Accordingly, despite the provision of "cutting off by Yahwe" in v. 5, we must conclude that this verse is P, or perhaps RP, and not H. Nevertheless the very fact that in their embarrassment these P legislators had no recourse other than to a mode of punishment characteristic of H and out of accord with their own basic doctrine, suggests that they may well have been cognizant of an older law dealing with this same sin and prescribing the punishment of "cutting off by Yahwe" for the individual sinner, in other words the original H law which we have posited and which their law supplanted.



but also all his associates, impliedly not only those who may have actually participated with him in the forbidden cult, but also and even more those who had refused to execute him in accordance with the law, and by this very refusal seemed to sanction, and thus to become sharers in his sin. There can be no question that these Priestly legislators too implied death at the hand of Yahwe by the expression *הכרית מן העם*, with Yahwe, of course, as the subject of the verb. But does this mean immediate death, as for example in the case of the two sons of Aaron,<sup>45</sup> or in the case of Korah and his band,<sup>46</sup> or does it perhaps mean a death, not immediate, but which comes ultimately in Yahwe's own time and way? If the latter, then the expression would seem, in its immediate implications at least, to differ in connotation but little, if at all, from *נשא חטא* or *נשא עון*.

Now it is significant that, on the one hand, in neither the story of the death of the two sons of Aaron nor that of Korah and his band are the expressions *הכרית מן העם* or *נשא עון* used. The sudden and immediate deaths in both narratives are described by altogether different expressions. Seemingly this is not the type of death which these two expressions describe. On the other hand, as we have seen, in Ezek. 14.9f. the two expressions, *הכרית מן העם* and *נשא עון*, are apparently equated. This seems to be the case also in Lev. 19.8; 20.17; Num. 9.13; 15.30f. The first, superficial conclusion from all this would be that the two expressions are actual and complete synonyms. This is, of course, by no means impossible. But it is certainly improbable; and this conclusion is definitely confirmed by a careful analysis of the four last cited passages, all from P.

It has long been recognized by scholars<sup>47</sup> that in Lev. 20.17, aβ is a gloss, for between it and the remainder of the verse an irreconcilable contradiction occurs. Without this gloss the verse read originally simply, *ואיש אשר יקח את אחתו (בת אביו או בת אמו)*,

<sup>45</sup> Lev. 10.1-2.

<sup>46</sup> Num. 16.28-35.

<sup>47</sup> Cf. Baentsch and Bertholet, *Commentaries*, and Holzinger in Kautzsch, *Die heilige Schrift des Alten Testaments*.<sup>4</sup>

<sup>48</sup> It is extremely likely that *או בת אמו*, or, as we shall see, the full expression, *בת אביו או בת אמו*, is also part of the gloss. Unquestionably the purpose of

ערוֹת אַחֶהוּ גֵלָה עִנּוּ יִשָּׂא. This law prohibited primarily marriage between half-brother and half-sister through the father, which

the original law was to formally prohibit a type of marriage which had formerly been regarded as proper and legitimate, but which advancing culture had come to regard as improper and incestuous, viz. marriage between half-brother and half-sister, children of the same father but of different mothers. The propriety of such marriages in the early period of Israel's residence in Palestine is evidenced by Gen. 20.12 and II Sam. 13.13.

The parallel, and presumably the original of this law here is found in Lev. 18.9. In its present form it says: As for the nakedness of thy sister, the daughter of thy father or the daughter of thy mother, born at home or born outside the home, their nakedness thou shalt not uncover. Here too, just as in 20.17, the half-sister through the mother is mentioned along with the half-sister through the father. The half-sister through the father is, of course, the daughter of the same father, but with a different mother. Now, strangely enough, this last relationship is dealt with again in 18.11. This verse says: As for the nakedness of the daughter of thy father's wife, the offspring of thy father, she is thy sister; her nakedness thou shalt not uncover. Evidently there is some difficulty here, for the second law, following, as it does, almost immediately upon the first, would scarcely deal with the same problem, or even a part thereof, and repeat the same prohibition which that law had stated already, and stated so absolutely. Several solutions of this problem suggest themselves. It may well be that in v. 11 the words מוֹלֶדֶת אֲבִיךָ are an amplifying gloss, inserted by some one who misunderstood the actual import of the law in its original form. If such be the case, then this law would have originally prohibited marriage and sexual relations, not with a half-sister through the father, as it does now, but rather marriage with a step-sister, offspring of the father's second wife and of an earlier husband, who apparently accompanied her mother into the new home and thus came to be regarded as the sister of all the offspring of her mother's latest husband, even by wives other than her own mother. It is not at all impossible that such a marriage was regarded by the legislators of Lev. 18 as incestuous and therefore forbidden. But while not impossible, it is scarcely probable. For later legislators or glossators would hardly have attempted to abrogate such a relationship, if already established and forbidden on the ground of its supposedly incestuous character, and to substitute for it merely a more restricted marriage based upon a closer relationship, viz. that with the actual half-sister through the father. The trend of social evolution seems to be in general from the more restricted to the broader and more inclusive concepts of forbidden relationships and not vice versa. In all likelihood therefore the law in its present wording and meaning is original here.

In such case then the difficulty which brought about the present duplication between vv. 9 and 11, must lie in v. 9. This difficulty may be resolved in one of two ways. The first way would be to assume that in v. 9 the words

in the earlier period of Israel's cultural evolution had been considered legitimate and proper. In case of disregard of this

בן אביו are a gloss, and that the law dealt originally only with the question of marriage with a half-sister through the mother. This would, of course, relieve the duplication of v. 11. However, this solution, simple though it is, is almost certainly not correct. For it is apparent that throughout this chapter relationship is traced primarily through the father and not through the mother. It would therefore be surprising, and even anomalous, were the question of the prohibition of marriage with a half-sister through the mother to be considered here first, before that of the prohibition of marriage with a half-sister through the father. Therefore, the alternative and more probable solution of the problem, it may well be that the gloss here consists of the entire expression, בן אביו או בן אמו. In such case the original law would have said this: As for the nakedness of thy sister, whether born at home (i.e. thy full sister, offspring of both the same father or the same mother) or born elsewhere (i.e. the offspring of the mother by a previous marriage, in other words, the half-sister through the mother), their nakedness thou shalt not uncover. Upon this law the present provision in v. 11, forbidding marriage with a half-sister through the father, would follow, not only naturally and logically and entirely without duplication, but also almost necessarily, since otherwise this code of social laws and forbidden marriage relations would have contained no restriction whatever upon marriage with a half-sister through the father.

One other consideration tends to lend considerable confirmation to this hypothesis. I have shown elsewhere ("Beena Marriage [Matriarchat] in Ancient Israel and Its Historical Implications," *ZAW* [new series] [1929], 91-110) that under the conditions of *beena* marriage only children of the same mothers were regarded as brothers and sisters, and members of the same clan, while children of the same fathers, assuming that such common fatherhood could be known in *beena* marriage, would scarcely be regarded as related at all, and no bar whatever to their marriage would exist. Moreover, even after *ba'al* marriage had completely or almost completely supplanted *beena* marriage in Israel, children of the same mother but of different fathers continued for some time to be regarded as more closely related than children of the same father but of different mothers. It required a long social development and evolution of the institution of marriage before the principle became firmly established that children of the same father but of different mothers were quite as closely related as children of the same mother but of different fathers, or that at least they were sufficiently closely related to be regarded practically as brothers and sisters, and in consequence to make marriage between them incestuous and forbidden. Just this is the stage of evolution of the marriage institution in Israel represented by this legislation in Lev. 18. We can easily see therefore the natural and logical character and order of the laws which prohibit marriage with (1) a full sister, child of the same father and mother, (2) a half-sister through the mother, and (3) a half-sister through the father, with this last

prohibition it holds only the man guilty and provides for him alone the punishment of "bearing his own guilt," i.e., ultimate, but none the less premature, death at Yahwe's hand. Into this original and simple law the gloss in  $\alpha\beta$  introduces an altogether new idea, apparently not contemplated at all in the original law. It is the idea of the satisfaction of unnatural lust on the part of half-brother and half-sister. This being the question at issue now, and no longer that of the prohibition of a form of marriage once regarded as legitimate, no distinction is made as to whether their relationship results from their having the same

prohibition, which alone is the innovation in the marriage system here considered, coupled with and motivated by the insistent statement that the daughter of the father by a second wife is equally a sister, marriage with whom would be incestuous and is therefore absolutely forbidden. This important consideration, which establishes the logical progress from the law in v. 9 to that in v. 11 and likewise removes all duplication between them, tends strongly to confirm our assumption that in v. 9 the words  $\text{אוּ בַת אֲבִיךָ}$  or  $\text{אוּ בַת אִמְךָ}$  are a gloss, inserted by some one to whom no doubt the term,  $\text{מוֹלֶדֶת בֵּית אֹר מוֹלֶדֶת חוּץ}$ , seemed obscure.

(In any case v. 10 interrupts the obvious unity of vv. 9 and 11 and is therefore in all likelihood an editorial gloss, inserted by some one with a mind theoretically systematic rather than eminently practical, and who, in this detailed list of forbidden marriage relations, missed one unquestionably close relationship, viz. that between grandfather and granddaughter. However, from a practical standpoint such a marriage relationship is so far-fetched and strained that in all likelihood the original H legislators who framed this little marriage code, and who were dealing with a concrete and practical problem, did not even conceive of it, or if they did, regarded it as so unreal as not to require specific mention. In all probability therefore in the original code v. 11 did follow immediately upon v. 9.)

Returning now to Lev. 20.17, we may regard it as fairly well established that at least the words  $\text{אוּ בַת אִמְךָ}$  are a gloss, just as we have assumed at the start. But in the light of our entire discussion we may conclude that in all probability the full expression,  $\text{בַת אֲבִיךָ אוּ בַת אִמְךָ}$ , is a gloss, inserted by the same glossator as the parallel gloss in 18.9. In such case the original H law here would have said, in the simplest and most direct manner possible: If a man marries his sister (and so) uncovers her nakedness, he shall bear his sin. Such a law would probably not have attempted to define exactly what the term sister implies but, basing itself upon 18.9, 11, where that relationship was already defined, it would have provided that which is lacking there, viz. the penalty for disregard of this law and for contracting a marriage of extremely incestuous character. See also addendum below, p. 74.

father or the same mother. Moreover, under this new consideration both of them are regarded as equally guilty and the sin is described as a mutual offense, and for it the punishment of both guilty parties is prescribed, viz., that both shall be "cut off" in the sight of their people. The utter and unharmonizable contradiction between the original law and this new and amplified interpretation of it is self-evident. But equally apparent is the fact that here the punishment implied in the expression נשא עון is original and presumably the older, while that implied in the term הכרת הנפש is secondary and later.

This same conclusion is even more obvious with Lev. 19.7f. That law provides a double punishment for the offender who eats the flesh of the "peace-offering" upon the third day, instead of burning it in accordance with the prescribed ritual, viz., that "he must bear his own sin" and also that "that person shall be cut off from his people." It would seem that v. 8aβb is secondary and editorial;<sup>49</sup> and this conclusion is confirmed strikingly by the fact that the parallel statement of this law in Lev. 7.18 provides only the punishment, נשא עון, and makes no mention whatever of "cutting off from his people." Unquestionably, here too, the latter punishment is a secondary amplification of the original law.

Num. 15.30f. is a bit more complicated in that, in addition to the punishment of נשא עון, or its equivalent עונה בה, the punishment of "cutting off" is prescribed twice, with each prescription accompanied by its own motivating clause. Unquestionably, here too, the latter punishment is secondary,<sup>50</sup> and the law read originally in simple and direct manner, והנפש אשר תעשה ביד רמה מן האזרח ומן הגר את יהוה הוא מגדף עונה בה. And likewise in Num. 9.13, even though the evidence is by no means as strong and convincing

<sup>49</sup> That the secondary portion of the verse begins with aβ and not merely with b becomes clear when we realize that in the great majority of cases where the Biblical legislation provides the punishment of "cutting off by Yahwe," it motivates this by an explanatory clause which, just as here, usually precedes the statement of the punishment (cf. Gen. 17.14; Lev. 19.8; Num. 9.13; 15.30-31; 19.20), but occasionally follows this (cf. Lev. 17.10, 14; 20.3).

<sup>50</sup> Holzinger (in Kautzsch, *Die heilige Schrift des Alten Testaments*) suggests that v. 30aβ is a gloss, as in fact the use of the third singular masculine instead of the feminine indicates; but this is obviously not enough.



as in the three other passages, the presumption is great that  $\alpha\beta\beta\alpha$ , the portion of the verse which provides the punishment of "cutting off" coupled with its customary motivating clause, in this case following the statement of the punishment, is secondary, and that the verse read originally quite simply, **והאיש אשר הוא טהור**, **ובדרך לא היה וחדל לעשות הפסח חטאו ישא (האיש ההוא)**<sup>51</sup>.

In all these passages it is quite clear that the punishment of "cutting off" is secondary to and later than that implied in the term **נשא עון**. Accordingly it is difficult to avoid the conclusion that the two terms are not exact synonyms, as it might have seemed at first, for in that case in not a single instance would the addition of the secondary provision have added anything whatever to the original law. And while we might easily have overlooked the matter and regarded it as inconsequential had it occurred but once, the fact that it has occurred in these four instances, or in at least three of them, seems to justify the conclusion that the punishment implied in the term **הפריית פ'** **מתוך עמו** is not quite the same as that implied in the term **נשא עון**, but is a somewhat later development and represents a certain advance or expansion of the punishment implied in the latter term.<sup>52</sup> The difference between them can not be very

<sup>51</sup> **והאיש אשר הוא** probably editorial, necessitated by the length of the sentence in its edited form.

<sup>52</sup> It is not at all improbable that in Lev. 20.18 an original provision for the punishment of "bearing one's own sin" has been suppressed completely by P editors in favor of the present, seemingly secondary punishment of "cutting off." There is considerable confusion and uncertainty of meaning in the verse, due to the repetition of the thought of the words, **אח מקרה הערה**, in the words immediately following, **והיא נלחה אח מקור דמיה**. In this second group of words the subject is changed from the man to the woman, while the penalty of "cutting off" is prescribed for both persons. It seems therefore quite probable, in the light of the evidence which we have already gathered, that this law may have read originally **והאיש אשר ישכב אח אשה דוה וגלה אח ערותה אח מקרה** **והיא נלחה אח מקור דמיה**, and thus have regarded only the man as guilty, and prescribed therefore for him alone the penalty of having to "bear his own sin." Later, in accordance with the tendency which we have already noted in this entire P section of this chapter, beginning with v. 10, to extend the responsibility for the defiling guilt and the consequent necessity of ritual execution to both parties in the sexual act, the P editor, or perhaps even the secondary H editor, inserted the amplifying words, **והיא נלחה אח מקור דמיה**, and then substituted for

great, for, as we have seen, both imply originally and basically

the original penalty of "bearing his own sin," applied to the man alone, the present penalty of "cutting off," applied to both the man and the woman.

From all this evidence, and a more detailed investigation would no doubt multiply it considerably, it would seem that between the earlier strata of H and its later strata, or else, perhaps better, strata which are largely, if not entirely the work of RP, there was a definite tendency, first, to enlarge the range of criminal and expiatory responsibility in sexual acts so as to include not only the man, as at first, but also his partner in the act, and, second, to prescribe as punishment the penalty of "cutting off" for both parties in place of the original penalty of "bearing his own sin" for the man alone. Apparently therefore this penalty of "cutting off" was a secondary stage in the evolution of public punishment of the individual in the post-exilic period, a later development than the punishment of "bearing one's own sin."

Also in a number of other Biblical passages, cited in note 43, all, of course, from P, or perhaps better P2 or RP, the provision for the punishment of "cutting off" seems to be secondary. Thus in Ex. 12.15 it is self-evident that the clause, *כי כל אכל חמץ ונכרתה הנפש ההיא מִיִּשְׂרָאֵל*, is secondary, since it disturbs the direct continuity between the first half of the verse and the phrase, *מִיּוֹם הַשְּׁבִיעִי*. It is altogether impossible that this last phrase should modify the clause immediately preceding, for that would imply that in this particular case at least "cutting off" was nothing more than excommunication for the seven days of the festival, a procedure impossible, on the one hand, since it was not until the actual close of the festival period that the sin in question became complete, and, on the other hand, because it was altogether contrary to the implications of "cutting off by Yahwe," as we have established them. With this clause omitted the verse says simply and directly: Seven days shall ye eat unleavened bread; moreover, on the first day shall ye remove leaven from your homes, from the first day until the seventh day. This was a simple and direct command prohibiting absolutely the eating, and even the having of leaven in the home during the seven days of the festival. Apparently, however, some later Priestly editor missed the provision for the proper punishment in case this law was disregarded. Accordingly he inserted, though with manifest awkwardness, the provision that the person who disregarded this law should be "cut off."

Quite similarly in v. 19 of the same chapter only the first half of the verse can be original and was followed immediately by v. 20. This law thus read: For seven days leaven shall not be found in your homes; nothing which causes leaven shall ye eat; in all your dwellings shall ye eat unleavened bread. Between the first two thirds of this law the provision for the "cutting off" of whoever eats that which causes leaven has been inserted, as is evident from the fact that it precedes, instead of following, as it logically should, and undoubtedly would, had it been integral, the basic command in v. 20a not to eat anything which causes leaven. Here too, it may be inferred, the same

ultimate death at the hand of the Deity, not immediately, but

Priestly glossator, missing the provision, which he expected, for the punishment of the person who disregarded this law, inserted, and that clumsily and at the wrong place, the statement of the penalty of "cutting off" which we find in v. 19b.

A like procedure seems to have taken place in Num. 19.13 and 20. V. 12b takes full care of the case of the person who has touched a corpse but refuses to submit himself to the prescribed ritual purifications. It provides that, quite logically, such a person remains in a state of ritual uncleanness, with, of course, the intimation that he must conform to all the taboos and handicaps incidental to this state, among others, no doubt, the privileges of intimate social contacts and participation with the rest of Israel in religious exercises (cf. Num. 9.7). But no further penalty is here provided for this negligent or obdurate person, nor is in fact any penalty needed. V. 13 however, takes up the question entirely anew, with a new and full statement of the case, quite as if it were not the immediate continuation of the verse just preceding, but were something altogether novel. It then goes on to provide the penalty of "cutting off from Israel" for the person who neglects or refuses to submit to these prescribed ritual purifications, and justifies this seemingly extreme punishment by the plea that such a person has defiled the "dwelling-place" of Yahwe, i.e., of course, the sanctuary. We have already concluded, on quite independent grounds (above, pp. 7ff.), that the concept of Yahwe actually dwelling within the sanctuary and of the consequent, imperative, ritual necessity of keeping this free from all defilement, even at the most extreme cost, was a comparatively late development, later than the punishment implied in the term *נִסְחָה*, and likewise somewhat later than the punishment implied in "cutting off." Here in v. 13 this comparatively late concept of the defiling of the sanctuary is associated with the punishment of "cutting off," but in a passage where, as we have seen, this punishment is prescribed, not for a sin of commission, but only for one of omission, for failure to conform to a ritual provision. We have already surmised, on other grounds, that this passage is secondary. The evidence here presented tends to confirm this conclusion.

This is even more apparent in v. 20 of this same chapter, where for a second time the case of the person who fails to submit himself to these particular purification rites is considered and again the punishment of "cutting off" is prescribed. It needs but a cursory reading of the passage to establish that v. 21b $\alpha$  is the immediate continuation of v. 19, and that in consequence vv. 20 and 21a must undoubtedly be secondary and RP. It is noteworthy that in this secondary passage too the punishment of "cutting off from the community" is again motivated by the statement that the person who fails to purify himself in the prescribed manner, after contact with a corpse, has defiled the sanctuary of Yahwe.

In Num. 9.13, as we have just noted, a similar procedure seems to have taken place, although there it is not quite so clear or certain as in the passages

in His own time and way, but nevertheless at a time which would

discussed thus far. The significant fact here is that the verse provides a double punishment for the person who was in a position to offer the Paschal sacrifice but neglected to do so, the punishment of "cutting off" and that of "bearing one's own sin." We have seen that both of these are specific punishments and by no means practically identical, and that furthermore in all likelihood the punishment of "cutting off" represents a somewhat later development than that of "bearing one's own sin." These considerations suggest that v. 13 is composite and that that section of it which prescribes the punishment of "cutting off" is probably secondary, while that which prescribes the punishment of "bearing one's own sin" is probably original. This conclusion is strengthened greatly, and in fact rendered a practical certainty, by the fact that the subject of the verb in the expression  $\text{הַיִּשׁ הַהוּא יִשָּׂא חַטָּאתוֹ}$ , exactly the same expression as is used in the statement of the case in the first and original part of the sentence, while the subject of the verb  $\text{וַתִּכְרַחֲהָ}$ , the customary  $\text{הַנּוֹפֵשׁ הַהוּא}$ , is an altogether different expression than that used in the statement of the case. This seems to establish quite clearly that v. 13a $\beta$  (beginning with  $\alpha\alpha$  (ending with  $\text{בַּמַּעֲרֹו}$ ) is secondary. Further evidence of this conclusion may be seen in the fact that the motivation of the punishment of "cutting off" given in b $\alpha$  is altogether superfluous, since this condition has already been stated fully in a $\alpha$ .

In Num. 15.30-31, as we have also seen, a similar conclusion suggests itself, although there the problem is even more complicated, since there we find three specific statements of the penalty for the person who sins unwittingly and then, when he finally becomes aware of his sin, fails, or, impliedly, deliberately refuses to bring the proper sin-offering. The punishment of "cutting off" is prescribed twice for this person and that of "bearing his own sin" once. Moreover, each statement of the punishment of "cutting off" is motivated, the first by the statement that by his refusal to offer the prescribed sin-offering the sinner has defied Yahwe, and the second by the double fault, that by his disobedience he has despised the command of Yahwe and in addition has actually violated His commandment. We have had ample evidence that such motivating statements accompany the prescription of the penalty of "cutting off" almost invariably. On the other hand, and again in quite characteristic manner, the prescription of the punishment of "bearing one's own sin" here is entirely unmotivated. These considerations suggest as quite probable that vv. 30a $\gamma$  (beginning with  $\text{אִם יִהְיֶה}$ ), or perhaps even a $\beta\gamma\beta$  (beginning with  $\text{כִּן הָאֹרֶחַ}$ ; in this case, of course, v. 29 would likewise be secondary, as it probably is; unquestionably vv. 30a $\alpha$ , 31b $\beta$  would follow most logically directly upon v. 28), 31ab $\alpha$ , with their double provision of the punishment of "cutting off," are here also secondary, the work of RP.

This leaves Gen. 17.14 as the only passage, of all those enumerated in note 43, in which the punishment of "cutting off" is prescribed for a sin of omission of a ritual command, undealt with thus far in this note. The fact



that in all the other passages we have had to conclude that the provision of "cutting off" as the penalty for such a negative sin is secondary and the work of either RP or else of P2, suggests that this may be the case also with Gen. 17.14. This is by no means impossible; but if so there is absolutely no positive evidence to indicate it. It is true that v. 14 could easily be omitted here without the consciousness that anything whatever was lacking. In fact it might even seem that were this verse omitted, or rather regarded as secondary, the legislation for the institution of circumcision in vv. 9-13 would be better rounded out than it is at present. This is, however, altogether inconclusive evidence. And on the other hand, in v. 14 itself there are absolutely no indications of secondary composition, such as duplication of the provision of punishment or interruption of the logical continuity of thought, which we have found in all the other passages analyzed. We may hardly conclude therefore that v. 14 is not a unit with the remainder of the circumcision legislation.

However, it is by no means unlikely that the solution of this problem may lie in an altogether different direction. The evidence which we have gathered thus far seems to be cumulative and quite conclusive, that all those passages of the Priestly Code which deal with the question of the failure or neglect to carry out a positive ritual prescription are regarded as offenses not of an absolutely defiling character, or insofar as they are of defiling character, they are so in such a way that they can be easily guarded against. Accordingly they are apparently regarded as offenses against Yahwe of serious, but none the less not of first rate magnitude, and for them therefore not the punishment of execution by the state, but rather that of "cutting off" is prescribed. Moreover, it seems quite clear from the fact that Num. 19.20 provides that the sinner in question shall be cut off from the midst of the community (הקהל; perhaps implying in P the community of Israel in its social as well as in its religious aspects and relationships, in contrast to the term העדה, which seems to refer most generally to Israel in its religious aspect and relationships. It is significant that the concept of Israel as the קהל יהוה or, correspondingly, as הקהל, "the community" *par excellence*, is found only in post-exilic Deuteronomic or Priestly writings or other Biblical passages later than and more or less dependent upon these. Mic. 2.5, the only passage in which the expression יהוה קהל occurs, and which might be regarded at first glance as pre-exilic, is set down by the majority of commentators as a disturbing and late gloss, and this on quite independent grounds), as well as from the corresponding provisions in Ex. 12.19 that the sinner there in question shall be cut off from the עדת ישראל, the "congregation of Israel," and in v. 15, that he shall be cut off from Israel, as well as from the fact that Num. 19.13 states specifically that the person who has touched a corpse and then has failed to purify himself in the prescribed ritual manner would defile the sanctuary, of course if left free to enter and use it at will, and that therefore he will or must be cut off from Israel, that in these passages the legislators have in mind not so much the regular implication of the punishment of "cutting off," viz. eventual, but



nevertheless premature death at the hands of Yahwe, but rather what is, as we are about to see, the secondary implication or corollary of the punishment of "cutting off," viz. the much more immediate and practical punishment of excommunication, a procedure which, if carried out literally, would have effectually guarded against all possibility of ritual defilement of people and sanctuary emanating from these neglectful or rebellious anti-ritualists. This secondary implication seems to characterize the punishment of "cutting off", particularly as prescribed by late P legislators, in significant contrast to its primary implication, which, we have already noted, is most marked in its use by H legislators. It is noteworthy too that in all these late P passages only the *nif'al*, with a passive, or perhaps even a reflexive meaning, is used, and never the *hif'il*, as in the older passages. This strengthens our conclusion that the term here implies primarily excommunication rather than ultimate premature death at Yahwe's hand.

Now this same characteristic, late Priestly implication of excommunication, of disqualification and disbarment from the community of Israel and from its peculiar, intimate relations with Yahwe, is manifestly inherent in the entire legislation for circumcision in Gen. 17.9-14. Circumcised Israel and those non-Israelites who have through the rite of circumcision affiliated themselves with Israel in the cult of Yahwe are represented as constituting a distinct, separatistic group. They are bound to Yahwe by a close, covenant relationship. In theory the circumcision is the sign of this covenant; but in practice it is the concrete and visible sign of membership within the body or community of Yahwe-worshippers. Those who refuse to submit to the rite of circumcision have therefore definitely abrogated and repudiated Yahwe's covenant with Israel as a body and with themselves as individuals. Manifestly therefore they have practically excommunicated themselves from fellowship in Israel and from participation in the cult of Yahwe. And certainly from the standpoint of Israel itself they must have been regarded as excommunicated and outside the fold. Only this and no more can be the implication of the punishment of "cutting off" in v. 14. Certainly the consideration of ultimate, premature death at Yahwe's hands is very remote here.

Accordingly it follows that the point of view of the rite of circumcision as prescribed in Gen. 17.9-14, and with this, of course, of the entire narrative of Yahwe's covenant with Abraham and his posterity set forth in Gen. 17, must be animated by the same spirit and purpose and be the work of the same late group of Priestly legislators as are Ex. 12.15, 19; Num. 9.13; 15.30-31; 19.13, 20. This conclusion of the comparatively late date of this Priestly reinterpretation and formulation of the old rite of circumcision would seem to be borne out by the fact that it is probably later than, or at least must be correlated with Is. 56.6-7, where apparently observance of the Sabbath alone suffices to stamp a non-Israelite as a worshiper of Yahwe and a member in the fellowship of the community of Yahwe. (Unless, of course, וּמִחִיקֵי בְרִיתִי in v. 6, regarded by both Duhm and Marti as a gloss, based upon the same expression

in v. 4, should actually be original here and should have the specific meaning, "and hold fast to My covenant, impliedly through submitting to the rite of circumcision." Actually in both vv. 4 and 6 the expression *ומחזיקים בבריתי* seems to be secondary. It is noteworthy that in v. 4 the construction of the participle *ומחזיקים*, continuing the thought of the perfect with *וַאֲנִי* consecutive, and *ובחרו*, is unusual and suspicious, and also that v. 4a ends in a generalization which would seem to round out and conclude the thought of the verse in perfectly satisfactory manner, so that *ומחזיקים בבריתי*, particularly if it means only the rather general and vague, "and who hold fast to My covenant," is quite superfluous. In v. 6 *ומחזיקים בבריתי* follows much better syntactically upon what immediately precedes, particularly if we read, with LXX, the plural *שמרי* for the singular *שמר* [overlooked or ignored even in the 3rd edition of Kittel]. But it is difficult to avoid the conclusion that in v. 6 the whole of b and also aβ, *ולא־הבה יהוה את שם יהוה*, are present only as the result of editorial expansion. Certainly aβ interrupts the obviously logical connection in thought between aa and aγ, while the repetition of the name *יהוה* is awkward and disturbing. Furthermore, the late, theological character of the entire concept of "loving Yahwe" has been well established by Bamberger ["Fear and Love of God in the Old Testament," *HUCA*, VI {1929}, 39-54], while the late date of the concept, "name of Yahwe" as the hypostasis for the Deity Himself, has been commented upon already [above, p. 8, note 13]. Moreover, v. 7, the original character of which is beyond question, says explicitly that more was expected of these proselytes in the way of the positive worship of Yahwe than mere Sabbath observance, that they were actually expected to offer up prayers and sacrifices in the Temple, and the assurance is given that this worship would be accepted favorably by Yahwe. This contradicts absolutely the thought of v. 6b and establishes the secondary character thereof. But if we grant that v. 6b is an editorial gloss, its meaning and purpose become clear immediately. It is self-evident that in this passage the prophet was protesting strenuously against the discrimination practiced against the proselyte and his relegation to an inferior and qualified position in the religious community and in the cult. Instead of this he sought to assure both the proselyte and the eunuch of a high position in Yahwe's favor, impliedly quite as high as that of a native and ritually perfect and fully qualified Jew. But it is equally clear that this protest proved unavailing. The Biblical evidence is convincing that the party and policies of the ritualists triumphed completely, and that the proselyte was actually relegated to a position decidedly inferior, while to some potential proselytes and to all eunuchs admittance into the "community of Yahwe" was denied absolutely [Deut. 23.2-9]. And apparently of those proselytes who were admitted into ritual fellowship, at least during the two generations of their probationary period [ibid., v. 9], only the observance of the Sabbath and submission to the rite of circumcision, "the Abrahamic covenant," were required. It is just this state of things which, in sheer contradiction of the purport of the original prophecy, v. 6b describes. Clearly then it is an editorial gloss by one who

subscribed to the eventual, established and official practice and sought to bring the prophet's message into at least seeming harmony with this. But if this be granted, then it would follow with practical certainty that *מחויקים בברית* does actually designate those who submitted themselves to the Abrahamitic covenant of circumcision, precisely as we have suggested. And this, in turn, would establish rather conclusively that, again as we have suggested, the gloss in v. 6b is original, while *מחויקים בברית* in v. 4b is a mechanical, illogical and meaningless borrowing from this.)

This doctrine in Is. 56.6-7, that merely the observance of the Sabbath by non-Israelites suffices to stamp them as Yahwe-worshippers seems to accord perfectly with the point of view of Gen. 2.2-3 that the Sabbath was instituted by Yahwe as a holy day already at creation, with its implication that the observance of the Sabbath was intended by Yahwe to be incumbent upon all mankind. I have shown already ("The Sources of the Creation Story," *AJSL*, XXXVI [1920], 208-212) that the entire Sabbath motif in the creation story in Gen. 1.1-2.4 is secondary and, in all likelihood, emanates from a non-priestly and non-ritualistic, lay group of writers or legislators. This concept of the Sabbath, both in regard to the principle that its observance suffices to stamp a non-Israelite as a devotee of Yahwe, and also in regard to the non-ritualistic manner of its observance, merely through abstention from work (cf. also Is. 58.13f.; 66.23), contrasts diametrically with the distinctively ritualistic, priestly point of view that circumcision is an indispensable rite for the non-Israelite who would become a participant in the covenant of Yahwe (Gen. 17.12f.; cf. Ex. 12.48f.), and that upon the Sabbath specific rites were to be performed in the sanctuary (Lev. 24.8; Num. 28.9f.). All these passages in P seem to be P2 rather than Pg. Their divergent points of view indicate quite clearly that in the middle post-exilic period, that following upon the rigid, particularistic and ritualistic reforms of Ezra and Nehemiah, there were two distinctive schools of thought, the one, predominantly of priestly character, which sought to carry out the program of Ezra and Nehemiah in a practical way through further, minute, ritualistic legislation, and the other of a milder, less priestly and ritualistic, and in all likelihood more predominantly lay character, which sought to modify the extremes of ritualism and particularism which the preceding age had introduced (cf. "The Book of the Covenant," II, 75 and note 80). All this is a matter of extreme importance, calculated to throw much light upon the evolution of early Judaism, particularly during the so-called dark period, the century intervening between Nehemiah and the beginning of the Greek era. For this a much more analytic study of the Priestly Code, and particularly of its legislation, than has ever been made thus far, and a determination of its stratification are indispensable. This is obviously a task of far-reaching magnitude, into which, of course, beyond this small excursus, we may not enter here.

The evidence which we have adduced thus far, however, may well suffice to indicate that all these passages in the Priestly Code which prescribe the

represent a definite shortening of the ordinary span of life.<sup>53</sup> And certainly neither of them imply immediate death at human hands, i.e., state execution. Unquestionably there is some slight difference between the punishment connoted by these two significant terms; this much seems absolutely certain. But what could this difference have been?

In answer to this question one hypothesis suggests itself readily and naturally and in complete accord with the dominant theological principles and problems of the early post-exilic period, in which most of this legislation seems to have evolved. It needs but a moment's thought to realize that in the early post-exilic period, with its basic theological principle that Yahwe had taken up His permanent abode in the rebuilt Temple at Jerusalem,

punishment of "cutting off," in its secondary implication, that of excommunication, for the person who neglects or refuses to observe this or that ritualistic ordinance, circumcision, observance of the Passover either through abstention from leavened food or sacrifice of the Paschal lamb, offering a sin-offering for sins committed unwittingly (It may well have been that certain free-thinking laymen did not regard unwitting trespasses as sins of such magnitude that a sin-offering was needed to make atonement for them.), or neglect or refusal to conform to the rite of purification with the ashes of the red heifer, are late, P2, are all animated by the same spirit, and perhaps even are all directed against this same non-priestly, non-ritualistic, lay group. At any rate we need hesitate no longer in correlating the provision for "cutting off," with its implied meaning of excommunication, in Gen. 17.14, and perhaps with this the whole of Gen. 17, with the same provision in the other late Priestly passages which we have analyzed in this already too lengthy note. And we may also regard our conclusion as fairly well established that the punishment of "cutting off," even in its earlier implications of ultimate death at Yahwe's hand, coupled in all likelihood with the practical implication of excommunication, is a later development than the punishment of "bearing one's own sin," while in its later implications, with the practical procedure of excommunication strongly emphasized and the idea of premature death at Yahwe's hand no longer stressed, it is a comparatively late development.

<sup>53</sup> This too is the Rabbinic interpretation of "cutting off;" cf. *Mekilla, Pisha*, X (ed. Weiss, 14a, bottom; ed. Friedmann, 10b, bottom), which says that "cutting off" implies cessation of life, and B. Mo'ed Qaṭon, 28a, where, despite minor disagreements as to the exact age, the consensus of rabbinic opinion is that "cutting off" means death between the ages of fifty and sixty, i.e., of course, before the completion of the traditional span of seventy years. (These references I owe to the kindness of my friend and colleague, Professor J. Z. Lauterbach.)

and had by His very presence in their midst sanctified land, people, and sanctuary, and that accordingly this sanctity must be preserved at all costs and in every way possible, and that, above all else, no defiling influence must be left uncared for, to contaminate either land, people, or sanctuary and thus endanger Yahwe's continued residence in their midst, the punishment of "bearing one's own sin," with its implication of ultimate, premature, but by no means immediate, death at the hand of Yahwe, must have come in time to be regarded as eminently unsatisfactory and disturbing. Death in this manner was, as we have seen, the divine punishment for a sin of grave character, committed by an individual against the Deity. Such a sin must have been frequently, if not invariably, regarded as of defiling nature and effect. Consequently, the very presence of the sinner in the midst of the people and the land, and his presence from time to time in the Temple, could not but be thought to have a decidedly defiling effect upon land, people, and sanctuary. To permit him to live and move about freely in the midst of land and people until such time as the Deity would "visit his sin upon him," spreading the defiling influence through personal contact wherever he went,<sup>54</sup> and with no prescribed safeguard against this, must have seemed alarming indeed to the people, and particularly to the priestly authorities, with their strongly ritualistic theories and practice. It was inevitable that sooner or later some step be taken to safeguard the people thoroughly against the defiling influence of this sinner. Of course, the surest safeguard would have been the death of the sinner immediately, or at least as soon as possible, after the commission of the sin. This would, however, have been possible only as a public execution by the state or the community. Such execution could easily, and naturally would, carry with it the implication of being a ritual expiation on the part of the sinner for the sin which he had committed and the ritual pollution which he had caused thereby. We have seen already that actually this did become the established procedure eventually, and that at a moment in the post-exilic period by no means late.

<sup>54</sup> Cf. Lev. 15.31; 19.8; 20.3; Num. 5.3; 19.20, and note 52.



Nevertheless, this obviously represents an extreme, in fact the final, stage in the evolution of the procedure of punishment for individual sin against the Deity. Between this final stage of state or community execution of the sinner and the earlier stage implied in the term "bearing one's own sin," an intermediate stage was possible, viz., to continue to leave the eventual, though premature, death of the sinner in the hand of the Deity, but meanwhile to protect the people and the sanctuary, and perhaps the land also, by imposing upon the sinner taboos of such rigid character that all possibility of contact with people and sanctuary, and perhaps with land too, would be effectively guarded against. Practically, this would mean the most extreme and absolute excommunication of the sinner and perhaps even, if the political circumstances of the time made this at all possible,<sup>55</sup> his banishment from the land. Interpreted in the light of these considerations and in a strictly literal sense, ונכרתה הנפש ההיא (or עמיה) (or מקרב) עמה would naturally convey the implication of excommunication, of being under the bann, of consequent complete social and religious ostracism and isolation, with perhaps, though, of course, not necessarily, the added implication of exile from the land, rather than, as we have seen, merely the penalty of death, inflicted ultimately, and that perhaps remotely, by the Deity Himself. And used quite frequently, as we have seen it is, as a secondary insertion, supplementing, and impliedly adding something new to the expression נשא עון, which, as we have learned, already in itself connoted death at the hand of Yahwe in His own time and way, it seems quite probable that what the term הכרת הנפש implied practically was really excommunication, cutting off, in the most literal sense, from association with the religious community, and perhaps also exile, until such time as the Deity would, in accordance with His purpose and way,

<sup>55</sup> Actually this is not at all a far-fetched and improbable conjecture when we bear in mind the narrow, geographical limits of the post-exilic Jewish community, the steadily growing tendency toward extreme exclusivism and particularism, culminating in the reforms of Nehemiah, and the separatistic and unfriendly relations with the surrounding peoples and nations resulting therefrom. Under conditions such as these banishment would have been a simple and easy process.

inflict the appointed punishment of premature death upon the sinner.

Actually, there is little direct Biblical evidence that would tend to substantiate this hypothesis fully.<sup>56</sup> None the less it must be admitted that it would have been rather strange if, in the strongly ritualistic, post-exilic period, with the authority of the priests dominant, the institution of excommunication, through all ages, as is well known, one of the most potent and efficient institutions of priestly authority and discipline, had not been at least conceived of in theory, even if circumstances may have prevented its complete, practical enforcement. While, therefore, it is impossible to conclude with certainty that the punishment of הכרת הנפש agreed with that of נשא עון in its implication of ultimate, but still premature death at the hand of Yahwe, but went beyond this in its implication of the excommunication and possible exile of the sinner until the moment when Yahwe would "visit his sin upon him," in order to protect the rest of the community, the sanctuary and, so far as possible, the land also, from the defiling effects of the sinner's constant presence in their midst, we may regard the hypothesis as having a considerable, and even perhaps a large measure of probability.<sup>57</sup>

<sup>56</sup> But cf. the discussion in note 52 of the import of the term הכרת הנפש in the P2 passages coming from the post-Nehemiah period. Moreover, that at least Ezra and Nehemiah possessed the authority to excommunicate, and with this to drive into exile, may be inferred from the provision for the penalty of "uprooting" (שרש) in Ezra 7.26; cf. also note 57. Of certain historical implications of all this I shall treat in detail in the next volume of this ANNUAL.

<sup>57</sup> Perhaps some confirmation of this conclusion may be found in what seems to be the most natural and probable interpretation of Lev. 22.3. The verse reads: Say unto them (the priests): throughout your generations any man of your posterity (i.e. of your caste) who draws near while in an unclean state to the holy things which the children of Israel devote to Yahwe, that person shall be cut off from before Me; I am Yahwe. This verse seems to come from H, in contrast to v. 2, its parallel, which is obviously P. The significant thing in this verse is that it threatens the neglectful or recalcitrant priest, not with "cutting off" from the midst of his people, as the phrase runs customarily, but with "cutting off" from before Yahwe. Unquestionably the phrase מלפני is used in place of the customary מעמי or מעמי ישראל purposely and with direct bearing upon the priestly office and prerogatives. It means undoubtedly that because of his irresponsible ritual act the priest in question is permanently

However, be all that as it may, this much is certain, that both עון *and* הכרת הנפש imply in their ultimate consequences death

disqualified from all the duties, functions and privileges of his priestly office; he may no longer minister before Yahwe. This can not mean, however, that accordingly he reverts or is degraded to the level of an ordinary lay person. His membership in the priestly caste as well as the quality of holiness or taboo inherent in him because of his priestly office as such, and likewise because of this particular contact with the holy, tabooed things, and the consequent danger of his defiling any lay person coming in contact with him, would make this impossible. On the other hand, the death sentence, inflicted by human beings, is certainly not implied here (although Sanhedrin, IX, 6 does state that this was the actual procedure). Accordingly this verse can imply but one punishment, disqualification from the priestly office, together with a ritual separation of some kind from the people at large, in order to reduce as far as possible all defiling and disqualifying contact with them, in other words, excommunication.

In this connection an interesting thought suggests itself. Neh. 13.28 tells that Nehemiah caused a member of the high-priestly family to flee away from his presence because he had married the daughter of Sanballat, the Horonite. The account of this incident is obscure indeed. Not even the name of the man in question is recorded. It comes at the very end of the book, and the abruptness with which it is introduced and then broken off gives the decided impression that something significant is suppressed. Josephus (*Antiquities*, XI, 7, 2; 8, 2 and 4) gives a fuller account, but one still somewhat confused and obscure. Among other things, he dates the incident practically a century later, at or just before the advent of Alexander the Great and the beginning of the Greek period, and divorces it entirely of all connection with Nehemiah. He tells that the man in question was Manasseh and that he was the brother of the high-priest, and that, because of his marriage with Nicaso, Sanballat's daughter, whom he was unwilling to give up in response to the movement for marriage reforms (here then a reminiscence of the marriage reforms in Nehemiah's days), he had forfeited all claims to the high-priestly office. Sanballat accordingly took him to Shechem and there erected for him the Samaritan sanctuary on Mt. Gerizzim and installed Manasseh there as high-priest.

It is immaterial for our purposes whether this is an absolutely historical account of this incident and whether it transpired in the days of Nehemiah or in the period just preceding the beginning of the Greek era. The significant fact here is that the statement that by his marriage with this non-Israelite woman Manasseh had disqualified himself for the high-priesthood accords perfectly with the provision in Lev. 21.13f. that the high-priest might marry only a virgin of his own people, or perhaps even of his own priestly caste (such may well be the meaning of מעמיו here). No punishment is here provided for the member of the high-priestly family, in other words a potential future high-priest, who disregarded this law. But there can be no doubt whatever

at the hand of Yahwe, and are altogether distinct from and contrary to the infliction of the death penalty at the hands of

that thereby he disqualified himself absolutely as a candidate for the high-priesthood. Moreover, it is fair to presume that the matter was not allowed to rest there, but that some punishment of severe character and consequence was visited upon him. There is no evidence, nor is there any likelihood, that the immediate death penalty was invoked in this case. But it is altogether probable that the punishment would be not only disqualification from office but also excommunication and consequent expulsion from the land, in other words, "cutting off from the midst of the people." In fact just this seems to be the implication of the peculiar wording of the passage in Neh. 13.28, that Nehemiah caused the offending member of the high-priestly family to flee away from his presence. This, coupled with Josephus' version of this incident, can mean only that the priest in question, thus driven away forcibly, in other words "cut off from the midst of his people," sought refuge as an exile among the neighboring Samaritans.

Moreover, Josephus tells (*ibid.*, XI, 8, 7) that those who profaned the Sabbath or ate of forbidden foods, or committed other sins of like nature, fled to Shechem and found refuge among the Samaritans. Apparently Josephus has in mind the punishment of "cutting off from the midst of his people," for just this punishment is provided specifically for the two offenses which Josephus mentions by name, in Ex. 31.14b $\beta$  (H) and Lev. 7.20ff. (Pt). Unquestionably Josephus has in mind here a stage in the evolution of the concept of these sins and the proper punishment for them which precedes the legislation of Pg, with its specific death penalty, at least for violation of the Sabbath (see above, pp. 31ff.).

All this evidence tends to confirm our conclusion that in its practical application the punishment of "cutting off" implies excommunication, coupled with expulsion from the religious community of Israel, with the consequent necessity of seeking refuge with one of the neighboring peoples and there, at least from the legalistic Jewish standpoint, awaiting premature death at the hand of Yahwe.

Moreover, it can not be denied that the exclusion from the camp to which a ritually unclean person had to submit during the period of his purification (cf. for example, Num. 5.2-4) was likewise tantamount to practical excommunication for a limited period, a period during which the tabooed person was denied all rights of contact and communication with the rest of the people, all social fellowship and all participation in the worship of the Deity. Recognizing this, it would have been surprising indeed if this principle had not been extended in the most extreme cases, involving permanent defilement and disqualification, to permanent excommunication.

From another angle too it would have been surprising if, in the face of the urgent, ritual problem confronting them, these H and P legislators had not devised this penalty of excommunication for these sins and crimes of

men, i.e., state execution. Moreover, it is certain that הכרת הנפש represents a somewhat later stage in the evolution in post-exilic

defiling character, since excommunication was an institution by no means unknown in primitive Semitic life. Among the pre-Islamic Arabs what was tantamount to excommunication, viz. expulsion from the clan or tribe, carried with it the formidable consequences, apart from the many immediate social disadvantages, that, cut off from his own kinsmen, a man must necessarily be buried in a strange tomb, where there would be no one to perform the prescribed rites for the dead or to avenge him after death, and where in consequence his soul would be doomed to an existence of utter misery after death. (Cf. Jacob, *Das Leben der vorislamischen Araber*, 165; Lammens, "Le caractère religieux de 'tār' ou vendetta chez les Arabes préislamites," in his *L'Arabie occidentale avant l'Hégire*, 205.) Among the Yezidis today excommunication is regarded as a punishment more extreme even than death, for it not only involves confiscation of property also, but likewise and far worse, it affects evilly the state of the excommunicated person after death (Menzel, "Ein Beitrag zur Kenntniss der Jeziden," in Grothe, *Meine Vorderasienexpedition 1906 und 1907*, I, 108, 111). This institution was undoubtedly current among the pre-Canaanite Israelite clans and tribes, and, as Jud. 11.2-11 shows, persisted at least into the earliest period of settlement in Palestine. It would therefore be extremely surprising if the institution itself, or at least a strong reminiscence thereof, had not survived in some form or other (cf. Pedersen, *Der Eid bei den Semiten*, 78) even into post-exilic times, and if then the priestly reformers and legislators of that period, confronted with their pressing, ritualistic problems, had not laid eager hold of an institution which lent itself so readily to their hierarchic organization and theological principles, and which seemed to offer as effective and practical a solution of their problem as the circumstances of their day would permit. It is quite probable that in the early post-exilic period the imposition of the death penalty and its execution did not lie in the hands of the minor, Jewish government officials, but only in those of their Persian superiors, and that not until the time of Ezra and Nehemiah, when apparently a significant enlargement of authority was extended to Jewish officials in Palestine, and Nehemiah himself was even appointed by the Persian king as the highest officer in the land, did the power to impose and execute the death sentence become a Jewish prerogative. If this assumption be correct, it would account quite adequately from one practical angle for the fact that apparently not until the legislation of secondary Deuteronomic writers and of the Priestly Code did the death penalty come to be prescribed generally, and that until then, i. e. during the earliest post-exilic period, "cutting off," i. e. excommunication with the expectation of eventual, premature death at the hand of Yahwe, seems to have been the extreme penalty. This might account too in part for the seeming readiness and frequency with which the death penalty is prescribed in this D2 and P legislation, especially in cases where the offense seems comparatively trivial, as, for example, Deut. 21.18-21. It is a



Israel of the principle and practice of punishment for individual sin against the Deity than נשח עון, and also that both are earlier stages in this evolution than state or community execution for the same offense.

Now, having, as we believe, established these facts conclusively, we may return to the consideration of the Sabbath legislation in Ex. 31.12-17. It becomes immediately self-evident that this passage is not a literary unit since the provision in v. 14 that the person who profanes the Sabbath shall be "cut off from the midst of his people" manifestly contradicts the provision for the state execution of that person in בֹּא of that same verse and also in v. 15b. Certainly, the provision for the state execution of the profaner of the Sabbath is later than that for his being "cut off from his people," as we have seen. Moreover, v. 15, in which the provision for state execution is expressed with fullest detail, bears many earmarks of P or, perhaps even better of RP, whereas v. 14b $\beta$ , with the omission of ab $\alpha$ , through מוֹת יוֹמָת, is, in all likelihood, along with vv. 12, 13, 16, 17a, H.

Unquestionably v. 14b $\alpha$  is RP.<sup>58</sup> Not only does it disturb the unity and context of v. 14, but it repeats and anticipates unduly the thought of v. 15b, and is altogether superfluous to the thought of the entire passage. Moreover, it is couched in the typical *hoq* form and constitutes almost exactly just the element which we found missing in the narrative and ensuing legislation in Num. 15.32-36. Its form in Ex. 31.14b $\alpha$  is so characteristic that we may hardly conclude that it is a mere RP gloss. It seems far more probable that it must, for some reason or other, have been transferred to its present position from some other legislative

characteristic of human nature to employ unduly, and even to abuse, newly acquired power and authority. And this may very well have been the case in this particular period of extreme ritualism and rigorism and under the administration of a fanatic governor, such as Nehemiah obviously was, a condition from which a later, milder and more humane age, freed to a certain extent from priestly domination, receded with horror to almost the opposite extreme of making the imposition of the death penalty extremely difficult and rare, and in fact almost impossible, as Num. 35.30; Deut. 17.6-7; 19.15 and considerable Mishnaic legislation (cf. Sanhedrin, IV, 5; V) prove convincingly.

<sup>58</sup> כִּי must also be RP.

passage in which it stood originally. And if so, then certainly no conclusion is possible other than that originally it was an integral part of the present text of Num. 15.32-36. On the analogy of Lev. 24.10-16 we would expect that it followed originally immediately upon Num. 15.35 and read originally, ואל בני ישראל, תדבר לאמר מחלל השבת מות יומת. It would then represent the general legislation deduced from this one particular instance of Sabbath profanation, and would render the passage, Num. 15.32-36, complete.

From these two significant narratives, recorded in the Priestly Code, with their historical background and their theological implications so clearly apparent, and with their resultant legislation stated so precisely and couched in such unmistakable and characteristic form, we may conclude with a fair measure of certainty that in the early post-exilic period, when, owing to the new and constantly and rapidly changing circumstances, many practical problems of deep, theological import, with a profound bearing upon the daily life of the entire people, were constantly arising and demanding immediate and authoritative solution, and a solution emanating from no mere, ordinary human source, but a solution, because of the very nature of these problems, backed by supreme, divine authority, the regular and official, priestly practice was to refer the problem to the Deity Himself and by consultation, or perhaps better, as we shall see, by pseudo-consultation of the oracle, obtain from Him a decision with regard to that particular problem, a decision which then necessarily became a law for every similar case which might arise in the future. Moreover, and this is a matter of deep significance, by a peculiar process of fiction, but a process which was obviously characteristic of the methods of the post-exilic priestly authorities, and which finds frequent and illuminating instance in the Priestly Code,<sup>59</sup> these laws and the oracular procedure which called them forth were ascribed, not to their actual, post-exilic, priestly authors, but to Moses, the traditional law-giver and oracular priest, and therewith of course to the desert

<sup>59</sup> Cf. for example their tradition ascribing the origin of their priestly caste and cult to Aaron rather than to Zadok, their actual ancestor.

period. Unquestionably this characteristic priestly procedure was animated by definite and significant purpose.

Another interesting instance of this peculiar process will confirm this conclusion. It deals, however, unlike the two previous instances, not with the question of a basic sin against Yahwe and its consequent proper and expiatory punishment, but rather with a purely civil question. Accordingly, while, as we shall see, the technical procedure of consultation of the oracle and ascription of the resultant law to Moses is precisely the same as in the two afore-mentioned instances, the law itself is of necessity couched in quite different but, as we shall see also, equally significant form.

The instance is recorded in Num. 27.1-11, supplemented by Num. 36.1-12. It is cast in the characteristic narrative form, with desert and Mosaic background. It is the well-known story of the daughters of Š'lofhad. Their father had died leaving no sons but only five daughters. According to the established and legal principles of inheritance, daughters could not inherit the property of fathers, not even if there were no sons, but instead the estate passed to the next male kin, apparently the brothers of the deceased father.<sup>60</sup> Against this procedure these five

<sup>60</sup> Among the pre-Islamic Arabs brothers shared with the sons in the inheritance (Wellhausen, *Die Ehe bei den Arabern* [*Nachrichten von der königlichen Gesellschaft der Wissenschaften zu Göttingen*, 1893], 477, note 3; Proksch, *Ueber die Blutrache bei den vorislamischen Arabern und Mohammeds Stellung zu ihr*, 26.) Among the present-day Bedouin as well as among the fellahin of Palestine also females do not inherit as a rule, in order that property may not pass out of the tribe (Musil, *Arabia Petraea*, III, 233, 349; Kennet, *Bedouin Justice*, 99; Canaan, "Unwritten Laws Affecting the Arab Women of Palestine," *JPOS*, XI [1931], 194; Rutter, *The Holy Cities of Arabia*, II, 89; Thomas, *Arabia Felix*, 56f. For the same practice among the Yezidis cf. Joseph, "Yezidi Texts," *AJSL*, XXV [1908-1909], 229. Under Islamic law a woman enjoys complete control of her own possessions, and she may also inherit property; Rutter, *op. cit.* Much the same condition obtained among the ancient Aramaeans of Harran; Kraeling, *Aram and Israel*, 27f. This last was much the status of affairs in Israel after the legislation in favor of the daughters of Š'lofhad), precisely the same consideration which is basic to the narrative here in Num. 36.1-12. The same practice obtains also among the Yezidis; Empson, *The Culi of the Peacock Angel*, 61. From this we may infer that the old, nomadic or semi-nomadic practice of not permitting women to share in the inheritance persisted in Israel from the very earliest times down into the middle post-exilic period.

daughters protest strenuously and impliedly demand a new ruling. Their argument is significant; why should their father's name be cut off by the passing of his property away from his own immediate family, even though it be to the next male kin, his own brothers? Therefore, in order that their father's name might not perish, let his estate pass to them.

This argument is significant in several respects. In the first place, it is noteworthy that the concept of family has narrowed greatly from what it was in the early days of Israel's sojourn in Palestine, and that it means now primarily no more than a man and his own actual children. At least it is only the actual children who have the power and the sacred duty to perpetuate a man's name. Even his own brothers are no longer a part of his own family in the narrowest sense of the word, but apparently, as each marries and has children of his own, he thereby establishes his own family. Such a family is now designated as a *משפחה*.<sup>61</sup> This represents, of course, a far social development from the institution and clan organization which this term originally connoted.<sup>62</sup> This secondary connotation of this term is characteristic of its usage in the Priestly Code, and indicates conclusively the vast social transformation of family life and relations which had taken place in Israel in the period from the time of David to the post-exilic days, and particularly in the very last century or century and a half of this period.<sup>63</sup> Under conditions of social transformation and family reorganization such as these there was ample occasion for the rise of new and complex questions of marriage relations and inheritance, such as the story of the daughters of Šlofhad presents. Coupled with the fact that this narrative is obviously a part of the Priestly Code, and also with the significant connotation of the term *mišpāḥah* in it, the

<sup>61</sup> But cf. the use of *משפחה* in v. 11 and also in Lev. 25.49. Apparently the term is here in a transition stage and is therefore used freely and interchangeably in both its wider and its narrower meanings.

<sup>62</sup> Cf. "Beena Marriage (Matriarchat) in Ancient Israel and Its Historical Implications," *ZA W*, VI (new series) (1929), 99ff.

<sup>63</sup> Cf. the marriage legislation in Lev. 18 and 20 (H) and the prohibition there of various types and forms of marriage relations which were regarded in an earlier age as perfectly natural and proper.

historical setting and social background of this narrative and the altogether novel character of its problems become unmistakable.

Even more significant is the principle definitely expressed here, that a man's name is perpetuated, no longer through an unbroken line of male posterity, but rather through his ancestral estate, the possession of which remains constantly with his direct, bodily descendants, males preferably, but in case of failure of male posterity, then females. This is indeed a far social development from that earlier stage where the perpetuation of a man's name was assured only through an unbroken line of male descendants, and the question of inheritance and transmission of the estate was only incidental and, so far as the actual perpetuation of name was concerned, was apparently entirely negligible. On the one hand, it would seem that this new and changing concept goes hand in hand with the evolution of the institution of levirate marriage, which we have already discussed in considerable detail,<sup>64</sup> and particularly with that comparatively late phase of this evolution whereby the raising up of a son as the transmitter of the name of the deceased man ceased to be the main issue, and instead the questions of the transmission of the estate to the next male kin, and with this the freeing of the widow from her status as a chattel and a part of the estate, became the paramount problems. We have seen that this is the stage of the evolution of the institution of levirate marriage mirrored in the *mišpaṭ* in Deut. 25.5–10 in its latest form and also to a considerable extent in the Book of Ruth.

But it is even more obvious that the institution underlying the concept that the perpetuation of a man's name was primarily through the transmission of his estate to his children, male or female, and their direct descendants is the Jubilee system,<sup>65</sup> with its provision that in the Jubilee year there shall be a reunion of family and ancestral estate.<sup>66</sup> This family estate was a much

<sup>64</sup> "The Book of the Covenant," II, 159–185.

<sup>65</sup> This is in fact stated explicitly in the continuation of this narrative in Num. 36.4.

<sup>66</sup> Lev. 25.8–55. Note in particular that here too משפחה is used in exactly the same connotation as in Num. 27.4, and also how intimate is the association here of family and estate; cf. vv. 10, 41.



more concrete and real entity than a mere name, and therefore much better qualified to form the basis and serve as the symbol of family unity than the mere name of a long dead ancestor, steadily growing more and more remote. Therefore association of a man's name with his estate, to which his immediate posterity was automatically restored every fiftieth year, was a most effective way of preserving his name and memory, so long as the line of direct descendants from him remained unbroken. And it had the decided advantage over the older system, that in this way, with proper enabling legislation, the perpetuation of a man's name could be made doubly sure, for in addition to being transmitted through male posterity, it could now be transmitted, in case of necessity, through female posterity as well. In the light of these considerations, the full implication of the argument in Num. 27.4 becomes clear.

And the decision of Moses, or rather of the oracle through him, in vv. 8-11, is the necessary enabling legislation which makes possible the new procedure of inheritance by and perpetuation of the name through female descendants. Again from these considerations the date and the historical and social background of this particular narrative and legislation are established beyond question. Manifestly they are the product of the early post-exilic period, and could not possibly have been conceived in Israel before that time. Obviously therefore the ascription of the incident to the desert period and of the consultation of the oracle and the resultant legislation to Moses himself is a pure, characteristic, priestly fiction, designed to lend to the law and to the institution of which it was the expression the sanction of Mosaic origin and authority.

However, for this particular study the most significant import of this narrative is the fact that the legislation in question is obtained, so it represents, through consultation of the oracle by Moses. In this particular it accords completely with the two other narratives and bits of legislation which we have already analyzed. All three narratives have these significant essentials in common, first, that they deal with new, basic, social or theological problems, which had arisen in Israel only in the early post-exilic period, due to the far-reaching changes in the social

organization and theological system arising in that period, problems which could not possibly have suggested themselves in Israel at any earlier period, and, second, that they solve these problems by the promulgation of new legislation, which in every case they represent as having been formulated by Moses as the result of consultation of the oracle in the desert period.

It matters not that the legislation here is couched in a form which differs specifically from that in Lev. 24.10-16 and Num. 15.32-36. It could not well be otherwise, for there the problem is that of the commission of a basic and defiling sin against Yahwe and the proper, expiatory punishment therefor, while here the problem is altogether of a civil nature, with no question whatever of punishment for a sin or crime, but instead with a fixing through proper legislation of the procedure for an entirely new civil institution. It is not at all surprising therefore that here the particular law resulting from the decision of the oracle in this specific case should have taken the form of a *mišpaṭ*, but the form of a *mišpaṭ*, of course, characteristic of the Priestly Code.<sup>67</sup> The *mišpaṭ* is found in vv. 8a-11a. The protasis is introduced, in the customary P manner, by **כִּי** followed by the verb in the third person singular. The *mišpaṭ* contains three subordinate conditions each introduced, again in characteristic manner, by **וְ**. It is perhaps not without significance that v. 11b describes this particular law as a *ḥuqqat mišpaṭ*. The combination of these two technical terms for law is interesting and not improbably even significant. The import of the term *mišpaṭ* here is self-evident, since, as we have seen, this is a true *mišpaṭ* in every way, couched in characteristic P form.<sup>68</sup> But why the peculiar combination, *ḥuqqat mišpaṭ*? Can it be perhaps that the technical term *ḥoq* or *ḥuqqah*, particularly as used by P, designates a law which results from an oracular decision, real or fictitious, and that accordingly the combination *ḥuqqat mišpaṭ* signifies a *mišpaṭ*, i.e. a civil law, which results, not from the decision of a court or a recognized judicial authority, as, as we have seen,<sup>69</sup>

<sup>67</sup> Cf. "The Book of the Covenant," II, 123f.

<sup>68</sup> Of course *mišpaṭ* in v. 15 means "case" and not "law."

<sup>69</sup> "The Book of the Covenant," II, 214-235.

was the established practice in the pre-exilic period, but altogether from the decision of the oracle, communicated through the recognized oracular priest?<sup>70</sup>

<sup>70</sup> It suffices merely to raise this question here, without attempting to answer it, because of insufficient evidence. The expression *hugqat mišpaṭ* occurs in only one other Biblical passage, in Num. 35.29. We shall have occasion later to analyze this chapter in considerable detail, and shall see then that vv. 29–30 are unquestionably RP, that they disturb the continuity of the basic legislation of that chapter and were obviously inserted late. Furthermore, it is exceedingly likely that Num. 27.11b, in which also the expression *hugqat mišpaṭ* occurs, is likewise RP; witness the sudden change of subject, with transition from the second to the third person, and the fact that the half verse is not at all essential to the narrative and so would not be missed were it lacking. This would tend to indicate that the combination of these two terms for law is purely editorial; and this it may well be. It is noteworthy, moreover, that the combination in Num. 35.29–30 has a positive significance, although one altogether different than that in 27.11b. From our analysis of Num. 35 we shall see in due course that vv. 16–23 are actually a body of *mišpaṭim*, as they are in fact designated in v. 24, borrowed bodily in all probability from the Book of the Covenant, where they stood originally following immediately upon Ex. 21.12, or rather its original, pre-Priestly *mišpaṭ* form (see below, pp. 93ff.). It would seem therefore that the term *mišpaṭ* is used advisedly by RP in v. 29 because of his realization that a definite portion of the entire law which this chapter presents was actually a *mišpaṭ*, while apparently he designates the entire law as a *hugqah*, using the term in the conventional Priestly manner.

Probably in quite the same manner the combination, *hugqat torah*, likewise found twice in the Bible, in Num. 19.2a and 31.21b, evolved. The former passage is certainly RP, and the latter may well be so also.

In this connection the question may well be raised as to the origin and exact implication of the peculiar combination *hoq umišpaṭ*. This expression, employing only the singular of both nouns, occurs but four times in the entire Bible, in Ex. 15.25; Josh. 24.25; I Sam. 20.25b; Ezra 7.10. Of these four passages, the first is RD, and is therefore post-exilic, while the last is also, of course, post-exilic. The two remaining passages are usually regarded by the commentators as of pre-exilic composition. The expression is generally translated, as if used in a collective sense, "statutes and ordinances." But if this meaning had been intended by the authors, then there is absolutely no apparent reason why they should not have employed the plural immediately, since the expression *hugqim umišpaṭim* occurs very frequently in various Biblical books. Furthermore, it is clear from I Sam. 30.25b that the expression *hoq umišpaṭ* designates, at least in this one passage, one single law and no more, and that it does not have at all plural or distributive implication. This seems to be the implication in Ex. 15.25 also, although there, of course, the actual meaning

We need not attempt to analyze the story of the daughters of Šlofḥad further. It suffices for our purpose to have shown

of the half-verse and its connection with what precedes immediately is extremely obscure and uncertain. In Ezra 7.10 also it is clear that the expression is a compound and inseparable term, practically, if not completely, synonymous with *torat Yahwe*, and has approximately the meaning, "established legal practice," perhaps with the implication that this is predominantly ritualistic in character. Only in Josh. 24.25b might the expression *ḥoq umišpaṭ* be regarded at first glance as not a compound term, and be therefore translated distributively and in a collective sense, "statutes and ordinances." This would then carry the implication that the first and immediate consequence of Joshua's establishing a covenant with the people at Shechem, a covenant, of course, in the name of Yahwe, was that he gave to them a body of laws, designated as *ḥoq umišpaṭ*.

Many considerations, however, qualify this interpretation in certain respects. In the first place, had the author intended the meaning "statutes and ordinances," then there was no reason whatever for his not using the plural, the customary expression; this would have avoided all possible ambiguity. In the second place, it would be strange indeed that in only this one place the expression *ḥoq umišpaṭ* should not be regarded as an inseparable, compound term, whereas in the three other passages in which it occurs, it is unmistakably such. And in the third place, Josh. 24.25b has all the earmarks of a disturbing gloss. Unquestionably it interrupts the direct and logical continuity between vv. 24a and 25. Judging by analogy with Ex. 24.4-8 (cf. "The Book of the Covenant," I, 4-14), upon which this passage is undoubtedly patterned, the writing in the book is an integral part of the ceremony of the solemnization of the covenant. This is true also of the setting up of the stone as witness. Accordingly the account of the actual solemnization of the covenant is not complete until v. 28. Manifestly therefore, the statement in v. 25b that Joshua gave to the people a body of laws at the time of the solemnization of this covenant is out of place in its present position. It should either precede the entire account of the solemnization of the covenant, in the same manner as the laws of the Book of the Covenant precede the account of the solemnization of the covenant in Ex. 24.4-8, or in the K document (cf. "The Oldest Document of the Hexateuch") the statement of the little code of laws basic to the covenant precedes the account of the solemnization of the covenant in vv. 27ff.; or if not this, then certainly v. 25b should follow v. 28. In its present position it merely interrupts and disturbs.

The solution of the problem is probably this. As many scholars have recognized clearly, the Book of Joshua, when it was still an integral part of the Hexateuch, must have closed with the account of a covenant solemnized between Yahwe and Israel, with Joshua as the mediator, playing exactly the same role as Moses is represented as playing in both the K and the C accounts of the solemnization of this covenant. This account of the covenant

unmistakably that in the early post-exilic period, and particularly in the Priestly Code, the principle was firmly established that

must have contained, precisely as do the K and C accounts, a statement, no doubt of brief extent, of the fundamental principles of Yahwe's worship, to which Israel, on its part, was expected to subscribe. That this was actually the case is evidenced by the explicit reference to the words which Yahwe must just have spoken upon this very occasion, in v. 27; this too is the implication of the reference in v. 26a to the words which Joshua wrote in the book; for, by analogy with both the K and C accounts of the solemnization of the covenant, what was written in the book could not have been the words of the people, accepting the obligation to worship Yahwe alone, for of this the stone that was set up was the permanent witness. What was written down in the book could have been only, just as in both K and C, the words of Yahwe, the little body of laws setting forth the fundamental principle of His worship, in other words a code of laws.

These considerations make it very clear that we no longer have the original narrative of Josh. 24 in its primary form. We have only a composite and confused narrative resulting from very far-reaching re-editing of the original narrative. Analysis of the chapter shows that in the main this must have been the work of Deuteronomic editors, who sought no doubt to suppress the account of the covenant through Joshua in favor of their own tradition of the solemnization of the covenant through Moses and of its renewal on the eastern bank of the Jordan, still by Moses, just before his death and before the entrance into Canaan. This original covenant narrative must have told in logical order, just as did the K and C accounts, of the appearance of Yahwe to Joshua and Israel, of the revelation by Yahwe of a little code of laws embodying the fundamental principles of the worship of Yahwe, of the writing down of this little code of laws in a book by Joshua, of their acceptance by acclamation by Israel, and finally of the setting up by him of the stone as a permanent witness of Israel's declaration of its acceptance of Yahwe as its god. The course of the original narrative could not have been at all other than this.

It is clear therefore that the editorial revision has been quite extreme in character and extent. The little code of laws is missing here completely, and this in turn has necessitated further editorial amplification with attendant confusion in the narrative in its present form. Among other things, as the result of this editorial amplification, the original, simple book, in which Joshua is represented as having written the laws, has become the "book of the Torah of God," while v. 25b, with which we are here most concerned, clearly expresses an editorial reminiscence of the original tradition of the code of laws which Joshua communicated to Israel.

Without pressing the analysis and interpretation of Josh. 24 further at present, this much seems clear, that v. 25b is here as the result of editorial revision, and that the expression *hōq umišpaṭ* is used here also as a compound term, designating ■ unified code of laws, or a vague, editorial reminiscence



the chief and supreme, and not improbably even the sole, source of new legislation was the oracle, or the pseudo-oracle, administered, of course, by the priests themselves, but coupled with the fiction, designed to serve an important purpose, that this consultation of the oracle had actually been by Moses in the desert period, and that the law in question had emanated through him directly from the Deity.<sup>71</sup> Through this process various kinds of

thereof, rather than a definite group of laws, some of which were *huggim* and others *mišpaṭim*. Moreover, there is no reason to doubt that this editorial insertion is post-exilic, and that, just as unquestionably in Ex. 15.25b, the passage is RD.

The same conclusion undoubtedly holds true with regard to I Sam. 30.25, as the characteristic RD expression, עַד הַיּוֹם הַזֶּה, indicates sufficiently. And realizing that this verse is RD, and therefore post-exilic, the fact that it emphasizes that the practice in question had its origin with David, as was in all likelihood actually the case, while Num. 31.27, a Priestly passage, assigns the origin of this same practice to Moses at divine behest, becomes doubly significant. This last is another characteristic and most illuminating instance of the Priestly principle of ascribing the origin of all possible institutions, and particularly those of legal or ritual character, to Moses, or rather to divine revelation through him as the medium.

However, be all this as it may, we have here further and significant evidence of the manner in which various terms for law, originally technical and specific in their connotations, came to be used in the post-exilic period, and seemingly by Deuteronomic and Priestly editors, in various and strange combinations and with more or less modification of their original, exact and specific meanings.

<sup>71</sup> It is an interesting matter of speculation just what the bearing of all this may be upon the rabbinic tradition that the oral law, as contrasted with the written law, was equally the result of divine revelation through Moses (cf. Abot, I, 1). Unquestionably the oral law began to develop immediately after, or perhaps even somewhat before, the completion and compilation of the Priestly Code and the closing of the Pentateuchal canon. There could have been no interval whatever between the end of the compilation of the oral law and the beginning of the evolution of the written law. In fact certain Biblical legislation of unquestionably late character exhibits all the striking characteristics of the oral law, such as for example Ex. 35.3, recognized by all modern commentators as P2. And the tradition of the כִּנְסַת הַגְּדֻלָּה, undoubtedly a historic reality and a legislative body, and its unquestionable relationship to the late Biblical עֵדָה (cf. below, note 103) suggests too that the lawmaking process went on uninterruptedly in post-exilic Israel, even despite the close of the canon. In fact the injunction in Deut. 4.2, obviously a late, editorial gloss, forbidding the addition of further laws to the recognized canon, is

law, *mišpaṭim* as well as what we have chosen to call tentatively *huggim*, could evolve. Our interest henceforth centers in this latter type of law in particular. Whether the various and characteristic *mišpaṭim* in P,<sup>72</sup> were thought to have evolved in this same way is a question into which we need not enter here.<sup>73</sup>

conclusive evidence that such new laws were in constant process of formulation immediately after the close of the canon. Undoubtedly the origins of oral law must lie here. As has been suggested already, a minute analysis of both the Deuteronomic and Priestly Codes and determination of their latest legalistic strata will shed much light upon the beginnings of the oral law and the transition to it from the written law. Unquestionably in the basic Priestly principle that all legislation, regardless of its actual, historic origin (cf. note 70, end), came from the Deity through the mediation of Moses, we have the origin of the corresponding rabbinic principle that the oral law too had been revealed by God to Moses on Sinai.

<sup>72</sup> Cf. "The Book of the Covenant," II, 123.

<sup>73</sup> Num. 9.6-14 furnishes another interesting and illuminating case of consultation of the pseudo-oracle ascribed to Moses in the desert. Precisely like the three other cases which we have considered, in Lev. 24.10-16; Num. 15.32-36; 27.1-11+36.1-12, this case too is coupled with and the direct outgrowth of a specific situation, undoubtedly fictitious, in which the solution of the ritual problem involved is uncertain, and in which therefore the decision is referred to the pseudo-oracle. The incident arises out of the celebration of the first Passover in the wilderness after the exodus. It is therefore, according to the implied representation of the Priestly Code, the very first occasion when the Passover was to be observed according to the detailed ritual prescriptions set forth in the P sections of Ex. 12, for, of course, the Passover celebration in connection with the exodus itself was regarded as being of special character, conditioned by the particular, traditional events of that night, which necessarily made impossible all the ritual prescriptions of the ordinary celebration of the festival. Accordingly this first Passover in the wilderness was naturally the occasion when questions of exceptional character with regard to the details of the regular celebration of the festival would present themselves for the first time and therefore require oracular decision. Such a question is considered here. In this respect therefore, of this being the very first occasion when a question of specifically ritual character and of basic importance could arise and demand immediate and authoritative answer, this narrative parallels exactly the three similar narratives which we have already considered.

The question is this: A number of men were ritually unclean, and that to an extreme degree, requiring seven days for proper ritual purification, because of contact with a human corpse. Consequently they were debarred from the observance of the festival, and particularly, so it seems, from the specific and important ceremony of the Paschal lamb. It might be thought at first that

One matter of great importance for this study, however, these considerations have made quite clear, viz. that in the

they would be satisfied to be justifiably relieved of the obligation of performing this rite; but such is not at all the case. Seemingly the observance of this particular ceremony was regarded as of such importance, and in fact, for certain reasons which, for the present, we may only surmise, even necessary and indispensable, that they felt themselves unjustly discriminated against by the ritual principle which debarred them from the observance of this important rite for a cause over which they had no control, and which may even have resulted from the discharge of a pious and inescapable duty. Accordingly they laid their complaint before Moses; why should they be thus debarred from the celebration of this rite and the specific benefits resulting therefrom, with the implied question, could not something be done to make the celebration of the festival possible for them? It was a novel question, which could, of course, hardly have been anticipated in the original Passover legislation. Moses accordingly laid their question before the Deity, impliedly through the pseudo-oracle. The answer came back in the characteristic Priestly form of a *mišpaṭ*: Any man who is unclean by reason of contact with a corpse or who is upon a distant journey, i.e. is away from his home, where alone, according to the prescriptions of Ex. 12.3ff., the Paschal lamb could be offered, shall offer his Paschal sacrifice in the second month, on the fourteenth, at eventide, in other words exactly one month later than the regular, prescribed moment for this ceremony. With this is coupled the injunction that the man who is ritually qualified to offer his Paschal lamb at the regular time, but neglects to do so, has not the alternative of offering it one month later. This privilege was only for those who were actually prevented by either physical or ritual causes from performing the rite at the regular time. Those who were qualified to do so but neglected this duty must "bear their sin." (For this punishment here as the original and "cutting off," also prescribed here, as secondary, see above, pp. 16ff., and also note 52.) To this original law resulting from this pseudo-oracular revelation, certain other details of the Passover celebration, borrowed from Ex. 12, have been added by RP, in much the same manner as the original *ḥoq* in Lev. 24.16 was supplemented editorially with other laws of similar origin and character, even though of unrelated subject-matter.

In this particular instance of consultation of the pseudo-oracle in Num. 9.6-14 it is perhaps not without significance that Moses represents himself as hearing what Yahwe would command him, quite as if the divine revelation were communicated to him audibly, and not at all through the medium of the Urim and Tummim. If this detail of the narrative may be pressed literally, then we may perhaps see in it further evidence of our conclusion (cf. below, pp. 74ff.) that these Priestly legislators had no actual knowledge of what the historical Urim and Tummim were and that their entire theory of consultation of the oracle was vague and confused, that, in other words, it was no real oracle which they consulted, but only a pretended and imaginary revival of the

theological system of the Priestly Code, which undoubtedly dominated the religious thought, belief and practice of the greater portion of the post-exilic period, the consultation of the oracle, or rather, as we have suggested, of the pseudo-oracle, played a significant role. A moment's thought shows that it could not well have been otherwise. So long as Israel conceived of its God as dwelling upon a distant mountain, out in the desert, or, in a later stage of religious evolution, conceived of Him as a somewhat universal Deity dwelling in heaven, and only occasionally as descending from there to commune directly with His people, in other words, so long as Israel conceived of its God as a rather remote Deity, prophecy, i.e. communication of the divine will and instruction therein through the medium of those superior and chosen men upon whom the spirit of the Deity was thought

old, traditional oracle of the Urim and Tummim. Of course, against this it might be argued that nowhere in P is Moses represented as having recourse to the Urim and Tummim, that this method of divination is associated only with the high-priest, while Moses is always represented as receiving his revelations directly and audibly from the Deity. But this argument would be fallacious. For, on the one hand, P again and again represents the Deity as speaking directly, not only to Moses alone, but also to Moses and Aaron together, even though the latter was the appointed custodian of the Urim and Tummim, and, on the other hand, the older tradition (Deut. 33.8) apparently associated Moses himself, in his capacity of oracular priest, with the Urim and Tummim. Accordingly, in their ostensible revival of the old, traditional oracle of the Urim and Tummim, it would have been strange indeed had these Priestly writers dissociated Moses from them completely. Moreover, it takes but a moment's thought to appreciate that these Priestly writers represent the Deity as speaking directly, either to Moses alone, or to Moses and Aaron together, only in cases where the Deity Himself takes the initiative in the act of revelation. But in the reverse cases, where either Moses or Aaron must take the initiative in seeking a revelation from the Deity in the solution of some particular problem, then of necessity they had to conform to some established oracular technique, such ■ that with the Urim and Tummim. In the light of these considerations it is fairly safe to infer that in all these four cases of oracular revelation through Moses, which we have considered, the underlying implication is that this was through the medium of the Urim and Tummim. Therefore when in Num. 9.8 Moses is represented as hearing what the Deity will say to him, it is difficult to avoid the conclusion that these Priestly writers had only an inexact and confused conception of the oracle and of oracular procedure, that, in other words, theirs was no true, but only a pseudo-oracle, just as we are about to conclude.

to rest, was a, and perhaps the, natural and normal channel of communication between God and people. Moreover, in the pre-exilic period, when the king was, nominally at least, the religious, as well as actually the political head of the nation, and when therefore the priests had as yet no particular functions other than those incidental to their ministrations in the various sanctuaries, and, above all, when they possessed as yet no specific hierarchic authority nor exerted any far-reaching, centralized influence, and the dominant interests and problems of the people were national and political rather than religious, the prophet, and not the priest, was the natural and logical agent of divination and determination of divine will and purpose.

But in the post-exilic period, and particularly after the erection of the second Temple, when, as we have seen, the belief became firmly established that Yahwe had taken up His actual residence in the sanctuary, in the very midst of His people and His land, and sanctified them by His very presence in their midst, when in other words, the Deity had come very close to His people and, in a most literal sense, had become readily accessible to them, and when also the kingdom had come to an end, the high-priest had become the nominal head of the people, and the authority of the priests in all provinces of national and individual existence was dominant, and the compelling interests and problems of the people were no longer political but religious, problems of collective and individual ritual purity and meticulous ritual observance, what more natural then, when communication with or from the Deity was urgently needed, than that it should be, no longer through the prophet, the agent of long-range communication, but through the priest, who could ostensibly, by virtue of his peculiar office, lay the case at issue directly before the Deity and secure from Him a direct and unmediated response? This means, of course, communion with the Deity through the medium of the oracle.

An early instance of this tendency may perhaps be seen in Zech. 7.1ff., in the deputation sent to the sanctuary in the fourth year of Darius, to ascertain whether the four annual fast-days should continue to be observed. It is true that the divine decision of this question is communicated through the prophet. But it is



equally clear that this was a somewhat unexpected procedure, and that actually the inquiry had been directed to the priests primarily, for what otherwise would have been the purport of the recourse to the sanctuary, and the decision had been expected from or through them, no doubt as the result of consultation of the oracle. It seems almost as if this were one of the very last instances in the history of Israel of the official communication of the divine will through the prophet in answer to a specific inquiry. Prophecy became more and more decadent and eventually went off on the tangent of eschatological speculation. It could not well be otherwise, with Yahwe dwelling so close at hand, in the very midst of the people, and so readily accessible, at least for the ascertainment of His will, and likewise with the dominant interests and problems of the people what they were in this period. It was inevitable that the priest, and particularly the high-priest, supersede the prophet as the spokesman of Yahwe, and that the old oracle, or perhaps better, pseudo-oracle, be revived as the instrument by which, through the performance of the proper priestly technique, the will of the Deity might be ascertained.

Thereafter, and continuing undoubtedly through the entire period of dominant priestly authority,<sup>74</sup> the priest functioned as the spokesman of Yahwe. To him questions were referred for decision,<sup>75</sup> questions of novel character for which no precedent existed, questions which concerned, obviously, not merely ritual matters, but touched in one way or another upon all the new and complex phases and problems of post-exilic life. These decisions, once given, were undoubtedly recorded in written form and became the norms or laws by which all similar cases were thereafter decided. These laws or priestly decisions, so far at least as they dealt with matters of ritualistic import, and also perhaps to a certain extent as they dealt even with non-ritualistic matters, were designated generally and inclusively as *torot*, and

<sup>74</sup> Cf. Lauterbach, "The Pharisees and Their Teachings," *HUCA*, VI (1929), 77ff.

<sup>75</sup> Cf. Hag. 2.11ff.; also Lev. 10.11; Deut. 24.8; Ezek. 44.23; likewise Deut. 17.10f. (cf. "The Book of the Covenant," II, 132); all these are unquestionably post-exilic writings.

each specific law, as well as law of this character considered either collectively or in the abstract, as *torah*. It was the old, official term for laws of priestly origin.<sup>76</sup> Its basic connection with the priestly oracle and the casting of lots is readily apparent in the etymological evolution of the term from the verb ירה, "to cast." Steadily the term *torah* became used more and more generally and extensively for law, as the literature of this post-exilic period shows conclusively, until eventually, with the closing of the Pentateuchal canon, the term *hattorah* came to designate the entire, traditional Mosaic law-code, now definitely conceived, in accordance with the established Priestly principle, illuminating instances of which we have seen, as having been revealed in its entirety by the Deity to Moses on Mt. Sinai. This developing use of the term *torah* in this post-exilic period is a convincing bit of evidence of the domination of this entire period by the priestly party and their hierarchic tradition and point of view.

How was the oracle consulted by the priests in the post-exilic period? It is impossible to answer this question with any degree of certainty. The evidence is scanty indeed. Outside of the specific instances of consultation of the oracle, which we have cited, the Priestly Code gives no information at all upon the subject other than the fact recorded in Ex. 28.30 and Lev. 8.8 that the Urim and Tummim were deposited in the pouch of the "breastplate of judgment" or "decision" upon the breast of the high-priest when he wore his sacred robes of office. There is not the slightest indication as to what these Priestly authors conceived the Urim and Tummim to be or how they were employed in the oracular procedure. And we know too little about the Urim and Tummim in the pre-exilic period to hazard much more than a guess. This much, however, seems probable. As I Sam. 28.6 indicates, even after the beginning of the development of the concept of the nation and of Yahwe as the national god consultation of the Urim continued to be regarded as one of the three legitimate methods of ascertaining the divine will. This was undoubtedly due largely to the fact that this

<sup>76</sup> Cf. Deut. 33.10; cf. also Mic. 3.11 and the unmistakably ancient term *kohen moreh* (II Chron. 15.3), and to this last passage "The Oldest Document of the Hexateuch," 108.

method of divination was of pre-Palestinian, desert, nomadic origin, had been brought into the land from their old desert home by the invading Israelite tribes, and was therefore traditionally associated with the name and cult of Yahwe. From of old the technique of the Urim and Tummim seems to have been in the hands of the Levitical priests,<sup>77</sup> and particularly of the oracular priest, of whom Moses was the typical example.<sup>78</sup> This was the specific function of the *kahin* among the pre-Islamic Arabs, and this in turn undoubtedly represents a primitive Semitic institution, current in ancient Israel as well as among the Arabs fifteen hundred or more years later.<sup>79</sup>

However, with the development of the nation and of the concept of Yahwe as the national god concerned primarily with the affairs of the nation as a whole, and with the prophet as His chosen spokesman and champion and filled with His spirit, and then, still later, as has been intimated already, with the further development of the concept of Yahwe as a universal god, prophecy naturally became the dominant and official method of consultation of the Deity and ascertaining the divine will.<sup>80</sup> Unquestionably the consultation of the Urim and Tummim sank into the background, so that, as has been said, during all the period from Saul to the Priestly Code we have not in the entire literature a single reference to the Urim and Tummim and their consultation.<sup>81</sup> In fact it is quite likely that with the passage of time, and particularly with the destruction of the Temple in 586 B.C. and the carrying away by the Babylonians of all the sacred

<sup>77</sup> Cf. Deut. 33.8.

<sup>78</sup> Undoubtedly with historical truth, since Moses' posterity is represented in the Bible as fulfilling this same role (Jud. 18.30).

<sup>79</sup> Cf. Lammens, "Le culte des bétyles et les processions religieuses chez les Arabes préislamites," in his *L'Arabie occidentale avant l'Hégire*, 102-114.

<sup>80</sup> Cf. for example II Ki. 22.5ff., where the apparent implication is that there was no official, national method of divination other than prophecy.

<sup>81</sup> Perhaps the narrative in II Ki. 1 may be construed as indicative of prophetic antipathy, not only to divination through consultation of the oracle of a deity other than Yahwe, but also to consultation of the oracle in general, even the oracle of Yahwe. Certainly the prophets, as the agents and champions of their own specific form of divination, would hardly have regarded sympathetically any other form of divination. And during practically this entire period the influence of the professional prophets was very strong.

equipment, the Urim and Tummim, along with the ark,<sup>82</sup> disappeared completely.<sup>83</sup>

However, be that as it may, this much seems certain, that the presence of the Urim and Tummim in the ritualistic scheme and equipment of the Priestly Code represents an artificial and more or less fictitious revival of the old instruments of divination by Priestly legislators and ritualists, in quite the same manner as they revived the ark.<sup>84</sup> But just as in all likelihood they had no adequate knowledge of what the ark really had been, or if they did, they did not hesitate to modify their conception and

<sup>82</sup> "The Book of the Covenant," I, 134-138.

<sup>83</sup> According to rabbinic tradition the Urim and Tummim were one of the five things which had been present in the first Temple, but were missing in the second; cf. *JE*, XII, 385b, and the references cited there. This too is unquestionably the implication of the peculiar tradition recorded in Ezra 2.63; Neh. 7.65, that not until the priest should arise to function with the Urim and Tummim could the genuineness of the priestly origin of certain families, represented as having returned from the Exile with Zerubabel, be determined. Meyer (*Die Entstehung des Judentums*, 194) holds that the term *tiršata*' in these vv. refers to Šešbašar, but this is impossible unless we repudiate the statement in the earlier vv. that these exiles returned with the group under Zerubabel, something which Meyer himself, insisting strongly upon the historic authenticity of this, his L source, would have been unwilling to admit. There seems little reason to doubt that *tiršata*' here, just as in Neh. 8.9; 10.2, and presumably also in Neh. 7.70 (significantly missing in Ezra 2.69), refers to Nehemiah. But if so, then this tradition indicates with certainty that the Urim and Tummim were not functioning in the days of Nehemiah, that they were not yet definitely associated with the office and uniform of the high-priest, that, in other words, they were missing at this time, but that their restoration at some future time, was confidently expected, and that, impliedly, then they would be in the custody and administered by, not the high-priest himself, but rather by a special priest, not improbably the *kohen moreh* of II Chron. 15.3. And, if perhaps, as is by no means improbable, this tradition, recorded here, be not contemporaneous and authentic, but be the work of the Chronicler and the product of a later age, it would indicate quite as conclusively that, despite the provision in P for the Urim and Tummim and the assigning of these to the custody of and use by the high-priest, even unto this later age the tradition persisted, just as rabbinical tradition still had it, that in the second Temple the Urim and Tummim were conspicuously missing, even though their restoration was confidently awaited. The bearing of this tradition upon the question of the date of composition of the Priestly Code as well as upon that of the history of the Urim and Tummim is of more than passing significance.

<sup>84</sup> Cf. "The Book of the Covenant," I, 72-81.

restoration of it and make out of the old Ephraimite ark, containing the two sacred stones,<sup>85</sup> the divine throne of Yahwe in the holy of holies, so too, in equal likelihood they had no definite knowledge of what the ancient Urim and Tummim had been. They knew only the vague tradition that they represented an ancient method of divination in the name of Yahwe, practiced presumably by the casting or drawing of lots, that they were in some way, so it seems, associated with the ephod,<sup>86</sup> whatever that may have been, and that they were a specifically priestly instrument of divination, and therefore well adapted to their program of priestly hierarchy.

Accordingly they revived the Urim and Tummim, or at least the theory of them, but patterned in the main, so it seems, after the tablets of destiny, the *dup-šimāti*, upon the breast of Marduk, the supreme Babylonian deity, and borne by him particularly upon the annual New Year's Day when, in his great temple, Ešagila, at Babylon, he pronounced the destinies for the year of his own people, and therewith of all the other nations of the earth with whom they would have contacts during the year. No doubt a symbolic representation of these tablets of destiny was borne by the Babylonian chief priest, or perhaps even by the king in his role as the earthly counterpart or representative of Marduk, during the performance of the supreme New Year's Day rites in the temple. And now correspondingly these Priestly writers, directly influenced by Babylonian religious example and institutions,<sup>87</sup> represented their high-priest as bearing upon his

<sup>85</sup> *Ibid.*, 81-124. Since writing that portion of this study I have read with much interest and profit the extremely rich and suggestive work of Lammens (*op. cit.*). On the basis of the cumulative evidence which he presents there (pp. 103, 117-121, 143-145) it has become perfectly clear to me that from the very beginning there must have been in the ark, not one, but two sacred stones or betyls. This I had conjectured, but now the abundant evidence makes the matter absolutely certain. From this historic fact, through natural and easily comprehensible evolutionary processes, the tradition of the two tablets of the Decalogue, deposited in the ark, gradually developed. Into this matter I hope to enter in greater detail at a more appropriate time.

<sup>86</sup> Cf. Jud. 17.5; 18.14-20; I Sam. 23.6, 9; Arnold, *Ephod and Ark*; Budde, "Ephod und Lade," *ZAW*, XXXIX (1922), 1-42.

<sup>87</sup> Cf. Haupt, "Babylonian Elements in the Levitic Ritual," *JBL*, 19 (1900), 55-81.



breast, when fully equipped in his sacred robes of office, the "breastplate of judgment" (or of "destiny," as it might well be translated, since the divine judgment and decree were likewise the destiny of the people for the year),<sup>88</sup> supported in position upon his breast by the ephod, now a part of the breastplate, the priestly suspenders as it were. And into the pouch behind or connected with this "breastplate of judgment" the Urim and Tummim were deposited. What they were like, what was done with them, when and how they were used, the Priestly Code gives not the slightest intimation, probably because it had no clear idea itself. And in all likelihood it had no clear idea itself because they were no actual Urim or Tummim, or if they were, they had no reality any longer as instruments of divination. And correspondingly, in all likelihood there was no actual consultation of the oracle, but only, as has been said, a pseudo-consultation, a pretended or formal consultation, which served the priestly purpose quite as well as a real oracle would have done, and enabled the priests to establish their hierarchic authority in all matters ritualistic as well as, to a considerable extent, civil.

This end was fostered by representing these oracular decisions as being the product, not of their own day and age, but of the desert period and as having been revealed to Moses through the medium of the ancient oracle. Their pseudo-oracular decisions in civil cases took the characteristic form of the Priestly *mišpat*, and in ritualistic cases, and particularly where it dealt with the question of punishment for basic sins committed against Yahwe, sins of a defiling character, which required the extreme expiation, they took the even more characteristic form of the *hoq* or *huqqah*, of which the law *מחלל השבת מוח יומת* is typical.

And when in the course of the life of post-exilic Israel new problems and situations arose, as of necessity they did again and again, problems and situations altogether novel in character, and particularly in their ritual and legal aspects, problems and situations for which there was no precedent in older legislation, or problems which the older legislation did not quite solve and

<sup>88</sup> Cf. Is. 6 and the interpretation of this chapter in "The Book of the Covenant," I, 48ff.

situations which it did not quite meet, then the only procedure available in the early and middle post-exilic periods<sup>89</sup> was to come to the sanctuary and lay the matter before the priest and inquire through him of Yahwe what the divine will and decree were for this or that particular case. The decision thus rendered became a law, *mišpaṭ*, *hoq* or *ḥuqqah*, or *torah*<sup>90</sup> as the specific character of the case might be, and became the precedent and norm for all cases of reasonably similar character which might arise in the future. Undoubtedly in this way many, if not most of the laws of various kinds, recorded in the Priestly Code, came into being. And in particular in just this way, so we may infer tentatively from the few specific cases which we have already considered, the *ḥuqqim* evolved, with their unmistakable, distinctive form and with the extreme penalties which they seem to have invariably prescribed. The *hoq* is thus a distinctively priestly law form. A part of our task, in the continuation of this study, is to test the validity of this conclusion by a detailed analysis of the few remaining *ḥuqqim* which the Bible contains. And first, and probably of greatest interest and significance, the *hoq* in Ex. 21.12.

### III

#### EXODUS 21.12

We have already given some consideration to this particular law and concluded that it is not original here, but instead represents a late substitution for a *mišpaṭ* which stood here originally.<sup>91</sup> We have shown, on the one hand, that the expression מוֹת יוֹמָת

<sup>89</sup> And in fact until the rise of the Great Synod. For whatever that institution may have been actually and in all its detailed organization, this much at least seems fairly certain, that it represents a strong protest, and not improbably even a kind of rebellion, against the practically absolute authority of the priests in legislative matters, and the entrance of lay influence and lay representatives into the legislative council of the people; cf. also note 70.

<sup>90</sup> For the manner of procedure cf. Lev. 10.11; Deut. 24.8 (perhaps P, and not D) and also the present Priestly revision of the original Deuteronomic *mišpaṭ* in Deut. 17.8-12, and also 21.5 (cf. "The Book of the Covenant," II, 132-135); cf. also Hag. 2.11ff.; Mal. 2.7.

<sup>91</sup> Cf. "The Book of the Covenant," II, 56-63.

in just this combination, used so characteristically in the *huggim*, is found only in post-exilic literature, and, with a very large measure of probability, implies execution by the state.<sup>92</sup> This in itself is almost sufficient proof to establish that this *hoq* is not original here, and this conclusion is confirmed absolutely when we realize that the provision of this *hoq* of state execution for manslaughter is altogether out of accord with the spirit and social background of the *mišpaṭim* of C, in which, as we have seen already, the principle of blood-revenge is still basic.<sup>93</sup> Even more convincing evidence of this we shall have shortly. And finally, as is self-evident, vv. 13-14, which ostensibly continue v. 12, are, or at least were originally, couched in typical *mišpaṭ* form. This would be a strange continuation indeed for a *hoq*, but would be the logical and expected condition for a *mišpaṭ*, such as must have stood originally in v. 12. On the basis of this evidence we have concluded that v. 12 must therefore have read originally *כִּי יָבֵה אִישׁ אֶחָד רֵעֵהוּ וּמָת נָקָם יִנָּקֵם*, or something which must have approximated this very closely. We shall have occasion to determine further and in much greater detail what the original C reading of the entire *mišpaṭ* in Ex. 21.12-14 may have been.

We have already considered in some detail the evolution in Israel of the institution of blood-revenge, and need not repeat here what has already been said.<sup>94</sup> In general we have been able to distinguish between four main stages of the evolution of the institution in Israel. The first is that preceding the time of David when blood-revenge was practiced in Israel, settled in Palestine, in much the same form and in accordance with much the same principles as had obtained out in the desert in the early

<sup>92</sup> *Ibid.*, 56f.; so also Merz, *op. cit.*, 105f., and also, cited by him, Weismann *Talion und öffentliche Strafe im Mosaischen Recht; Sonderabdruck aus der Festschrift für Adolf Wach* (Leipzig, 1913), 90.

<sup>93</sup> Cf. Ex. 21.18-23a; 28-31; 22.1-2a.

■ "The Book of the Covenant," II, 56-101; cf. also Merz, *op. cit.* With Merz' presentation and general conclusions I am in the main in agreement except where, here and there, a different and later textual analysis of the passages of the Bible in question leads me to assign to them datings and authorship different than those of Merz, and then, upon the basis of these variant datings and authorships to form a somewhat different picture of the evolution in Israel of the institutions of blood-revenge and public execution.

nomad or semi-nomad days. With David began a new period of gradual regulation and restriction, and of bringing the institution more and more under the supervision of the state. This was due, of course, to the final evolution of the state or the nation under David, with the concept of national unity superseding the older concept of clan or tribal unity,<sup>95</sup> and with the attendant, far-reaching cultural progress which the reign of David inaugurated.

In this second period blood-revenge is still the rule, with the right of asylum at the local sanctuaries, and particularly at the

<sup>95</sup> An illuminating instance of this evolutionary process is furnished by David's charge to Solomon to exact blood-revenge upon Joab for the murders of Abner and Amasa (I Ki. 2.5-6). Evidently David had secretly cherished this purpose for many years, until it had become a veritable obsession with him. No doubt too his animosity towards Joab was stimulated likewise by remembrance of the many occasions upon which Joab had frustrated his plans, particularly in his dealings with Absalom (cf. II Sam. 14.1-23, and especially vv. 18-20, and also 18.5-16 and 19.6-9; cf. also the import of the appointment of Amasa in place of Joab [II Sam. 20.4f.], and then, when Amasa failed in his task, the persistent refusal of David to reappoint Joab, but the appointment of Abishai instead [*ibid.*, v. 6]). But it is equally evident that during his own lifetime David did not feel himself in a position to avenge himself upon Joab, as his personal inclinations unquestionably prompted him to do. He owed very much to Joab's personal loyalty to him and to Joab's military prowess. This last probably made Joab practically indispensable to David during the greater part of his reign. Besides David was Joab's close relative, his uncle on his mother's side. Public opinion would therefore certainly not have countenanced any procedure by David against Joab. But at and after his death conditions were quite different. Solomon's relations to Joab were not at all what David's had been. In addition Solomon must have cherished a strong personal animus against Joab because of the latter's support of Adonijah's campaign for the kingship. It is easy to understand therefore how David could lay this charge upon Solomon. But, on the other hand, the very fact that David could act thus towards one who, by all the laws of *beena* marriage, still in David's younger days a dominant form of marriage in his own clan or tribe (cf. my "*Beena* Marriage," etc., 93-101), was one of his very nearest kinsmen, and whose natural guardian and protector he was as the brother of Joab's mother (and all the more so since Joab was himself the offspring of a *beena* marriage), shows how far the cultural evolution away from *beena* marriage had proceeded and how the concept of the state as the natural and supreme political and social unit had already during David's reign come to supersede that of the clan or tribe.

larger and more important shrines, generally recognized. But the state now determines the precise conditions under which blood-revenge shall be exacted, and with this necessarily, of course, just who shall enjoy the right of asylum at the local sanctuaries and under precisely what conditions. It also determines correspondingly just when blood-revenge shall not be exacted, but when instead ransom-money shall be paid and the manner in which the exact amount thereof shall be fixed, and also when there shall be neither ransom-money nor blood-revenge, but instead the manslayer shall be allowed to go free. It is clear that under these conditions the sanctuary serves only as a place of temporary asylum, until such time as the state, through its proper officials, can investigate and adjudicate the case. Thereupon the manslayer would leave the sanctuary, if pronounced innocent or subject to ransom-money, to comply with these conditions, but if adjudged guilty, then subject to the regular procedure of blood-revenge, viz. death at the hands of the blood-avenger whenever the latter should find him. Obviously the state acted with as little delay as possible, and in consequence the sojourn of the manslayer at the sanctuary, enjoying the right of asylum, was comparatively brief. This is, as we shall see, in marked contrast to the later procedure prescribed in the Priestly Code. This stage of the development of the institution is that pictured in the Book of the Covenant, as Ex. 21.14, 18-19, 20-21, 22-23a, 28-32; 22.1-2a show conclusively.

The third stage in the evolution of the institution is that reflected in Deuteronomic legislation, particularly in Deut. 19.1-13,<sup>96</sup> supplemented by Josh. 20.4-6.<sup>97</sup> In its basic principle it does not differ widely from the preceding stage, for blood-revenge at the hands of the blood-avenger but under state supervision is still the rule. The essential difference between the

<sup>96</sup> Probably also Ex. 21.13-14 in their present form; cf. "The Book of the Covenant," II, 204-208, and also Merz. *op. cit.*, 126-129.

<sup>97</sup> Cf. "The Book of the Covenant," II, 204, note 259a, and also Merz, *op. cit.*, 135f. Merz holds that Josh. 20.4-6 is the work of a glossator who missed something in Deut. 19.1-13 and so tried to supply it in Josh. 20. It seems not to have occurred to Merz that Josh. 20.4-6 may have stood originally in Deut. 19.



two stages is that incidental to the Deuteronomic Reformation with its program of destruction of the local sanctuaries and the substitution of three<sup>98</sup> cities of refuge in their stead as the official places of asylum for the manslayer. This necessitated, of course, the appointment of official supervisors and investigators of the right of asylum in a city of refuge of each individual manslayer. For this office the logical candidates were naturally the elders of each city of refuge. Accordingly Josh. 20.4-6 + Deut. 19.11-12 prescribe the exact and official procedure by which the manslayer is admitted to the city of refuge, and likewise the procedure by which, in case eventually and upon the testimony of witnesses of unquestionable integrity he be found guilty, he is expelled from the city. Apparently this Deuteronomic procedure differs from that basic to the earlier stage of the institution reflected in the Book of the Covenant in two essential details.

On the one hand, in contrast to the older legislation where, as it seems and as we shall see later, it was actually legislated for, the manslayer found guilty and therefore unworthy of the right of asylum in the sanctuary, was sent forth to become the victim of the blood-avenger whenever the latter might chance upon him, the Deuteronomic legislation provides that the manslayer found guilty by the elders of his own town, of premeditated murder, and therefore unworthy of the right of asylum in the city of refuge, shall be delivered directly into the hands of the blood-avenger, to be summarily put to death by him.

On the other hand, the Deuteronomic legislation seems to contemplate the possibility, or even the probability, of a long and protracted sojourn in the city of refuge of the manslayer guilty of only accidental, unpremeditated manslaughter. The language is a bit vague and this matter may not be affirmed too positively. None the less this seems to be the import of Josh. 20.4.<sup>99</sup> The

<sup>98</sup> And eventually six (Deut. 4.41-43; 19.8-9); however, this latter provision, which was in turn borrowed by Priestly legislators (Num. 35.9-34), was unquestionably purely theoretical, paper legislation, for, granting that this legislation, even in Deuteronomy, is secondary and therefore post-exilic, the fact that during this period the Jewish community seems never to have exercised dominion over trans-Jordania, would have rendered all this legislation for the six cities of refuge completely null and void.

<sup>99</sup> And also of v. 6aα, unless this be RP.

underlying implication of this new procedure, contrasting so strongly with the procedure of the preceding period, is that, were the manslayer pronounced innocent of intentional murder and therefore not subject to blood-revenge, and were he then to go forth from the city of refuge, the blood-avenger might still, in defiance of the decision of the authorities, seek to exact blood-revenge, and the state would be powerless to enforce its decision with regard to him. Apparently therefore the Deuteronomic phase of the institution of blood-revenge contemplates a state whose organization and centralized authority are decidedly weaker than that which furnishes the background of the Book of the Covenant. The latter was in all likelihood, as we have seen, the strong and vigorous government of Ahab over the Northern Kingdom;<sup>100</sup> the latter may well picture conditions as they obtained in the Southern Kingdom, particularly in the last years of the Kingdom and during the period of the Exile.<sup>101</sup> Moreover,

<sup>100</sup> "The Book of the Covenant," II, 255f.

<sup>101</sup> And perhaps even in the reign of Josiah himself. For it is by no means certain that he was the strong and vigorous monarch he is usually conceived to have been. Actually what we know of him is based upon only two incidents of his reign, the Deuteronomic Reformation and his ill-fated campaign against Pharaoh Necho. The latter was ill-advised in every way and certainly not the act of a wise and far-seeing leader. And in the former incident Josiah showed himself to be the gullible dupe of the prophetic party, who fell in with their plan without the slightest suspicion or question. That the Deuteronomic Reformation was carried through so aggressively and vigorously and with such complete success (measured, of course, by Deuteronomic standards), was due probably less to the strength and ability of Josiah than to the zeal and power of its prophetic protagonists, to whom, no doubt, he gave free rein and a large measure of support. Not improbably too his unfortunate campaign against Pharaoh Necho was undertaken at the instigation of prophetic advisers, of course men of the class of professional prophets rather than those of the higher type of a Jeremiah. Because of these considerations there seems good reason for believing that Josiah was anything but a strong, independent and competent ruler. Rather he seems to have been a weak, vacillating, easily influenced monarch, in these respects very much like his great-grandfather Hezekiah. Both these monarchs the Book of Kings, animated by the Deuteronomic spirit and standards, has naturally sought to portray as sympathetically and favorably as possible; and all in all it has succeeded in this quite well, particularly in the case of Josiah. But it is not at all difficult to penetrate beneath the surface and evaluate the two monarchs aright. And it

the Deuteronomic legislation, particularly in its later strata,<sup>102</sup> seems to seek to limit the right of asylum only to cases of killing which are the result of the sheerest and most absolutely unforeseen, unpremeditated and unavoidable accidents, and to deny it in all other cases, even though these too may have been largely unpremeditated and fortuitous. In this respect, so it seems, the Deuteronomic legislation with regard to blood-revenge goes a slight degree beyond the original legislation of the Book of the Covenant, as we shall see.

The Priestly legislation with regard to the institution of blood-revenge is presented most fully in Num. 35.9-34. Its general program is clear. It provides for six cities of refuge, three in Palestine proper and three in trans-Jordania. To any one of these cities the manslayer may flee and find refuge from the blood-avenger. Presumably, for it is not specifically stated, should the blood-avenger overtake the manslayer before he attains to one of the cities of refuge and kill him, the former would be regarded as entirely within his rights, and no measure of blame or of crime would attach to him. Once he has attained to a city of refuge, the sojourn of the manslayer there falls into two distinct periods. During the first period, undoubtedly of brief duration, his sojourn is temporary and tentative, awaiting

may well be that under a weakling king, such as Josiah seems to have been, the administration of justice may have become lax, and the power of the authorities to enforce their decisions and to conform to the newly established laws may frequently, in the face of a none too sympathetic public opinion (as is evidenced by the speedy reaction against the rigorous Deuteronomic Reformation following immediately upon the death of Josiah and the accession to the throne of a monarch not amenable to prophetic influence; cf. Jer. 7 and 44), have been weakened greatly. Accordingly it would not be at all surprising that D1 legislation, formulated in 621 B.C. or almost immediately thereafter, should have contemplated the necessity of providing for the permanent residence of the intentional manslayer in the city of refuge, in order to furnish thus the only real protection possible.

<sup>102</sup> Deut. 19.5 is obviously secondary. It disturbs the natural connection between vv. 3 and 6. Certainly v. 6 does not follow upon v. 5. The import of v. 5 is clearly to limit the right of asylum in the cities of refuge only to cases of sheerest and most unmistakable, unforeseen and unpreventable accident, and to deny it in all other cases of slaying, even though in them too there was no actual premeditation.

an investigation of his case by what was obviously the supreme judicial body, the עדה, whatever it may have been and however it may have functioned.<sup>103</sup> The עדה adjudicates the case carefully

<sup>103</sup> Without attempting to determine here what the term connotes exactly in every Biblical passage in which it occurs, and particularly in the Priestly Code, this much seems certain that in some passages it designates, not the community of Israel, as unquestionably it does in most cases, but a judicial court, which undoubtedly represents the community itself and is therefore designated by the same term (cf. also Merz, *op. cit.*, 134f., and Nicolsky, "Das Asylrecht in Israel," *ZAW*, 7 [new series] [1930], 165f.). According to Num. 27.2 this court consisted apparently of Moses, Elazar, the high-priest, the נשיאים and the entire עדה. This seems to imply that this court consisted regularly of the representatives of the three classes or social groups of the people, viz. the priests, represented quite naturally by the high-priest, the lay officers, political and civil, and the direct, lay representatives of the people. In all likelihood the position of Moses here is anomalous, a concession to his role in the tradition of the desert period, unless, of course, the implication is that a lay leader, the chief נשיא for example, was the actual, presiding head of this court. However, despite the attractive analogy with the later Sanhedrin, whose chief officer was likewise styled נשיא, which this assumption would offer, it is hardly likely that at this comparatively early period, when the priestly power and authority were still paramount, at least as it seems, the headship of this court would have been in the hands of any person other than the high-priest himself. Presumably therefore the presence of Moses here in this court is rather a concession to the old, desert tradition than representative of an actual condition in the organization of the post-exilic legislative body. This seems to have consisted, as has been said, of the representatives of the three social classes of the post-exilic Jewish community.

Moreover, from the fact that Num. 27.2 represents this court as convening at the door of the tabernacle (here called by the old term, אהל מועד, "tent of meeting," perhaps now with the implication that the tabernacle was so called because it was the place of assembly of this court, this עדה, literally "assembly," rather than, as the older tradition had it, because it was the place of meeting between the Deity and His earthly representative, the oracular priest; cf. my "The Tent of Meeting," *JAOS*, 38 [1918], 133f.), we may infer that this court convened regularly at a definite place within the precincts of the second Temple. This is likewise the implication of the J2 narrative of the seventy elders, brought together by Moses at divine behest about the "tent of meeting," outside the camp (Num. 11.16-17, 23-30), and of the older E narrative (Ex. 18.13-27; of still older Kenite origins, however [cf. The Oldest Document of the Hexateuch, 119-135], and with certain manifest Deuteronomic, and perhaps also Priestly, editorial amplification), of Moses judging the people, obviously at the door of the tent-sanctuary (cf. v. 15), and of his appointment of the body of men to co-operate with him in the discharge of these judicial functions. (Beyond

and determines whether the killing was premeditated or not, and whether correspondingly the manslayer is entitled to the right of permanent asylum in the city of refuge or not. If the latter, he

all doubt both of these traditions, both in all probability older than the P record of the עדה, imply clearly the comparatively early existence of a legislative and judicial body of some kind, consisting, according to the J tradition, of seventy men, holding its sessions at the entrance to the sanctuary. There can be no question whatever that these two traditions have a direct relationship to the עדה of P and to the later Sanhedrin, though what this may be is difficult to determine because of the obscurity of these two traditions in their present settings. The J<sup>2</sup> tradition in Num. 11 may well be of post-exilic literary composition, and even of post-exilic origin as an oral tradition. Certainly the tradition recorded in Ex. 18 has old, pre-exilic antecedents, although its present form and position may be due in the main to Deuteronomic or even Priestly editorial handiwork [cf. above, note 31]. It would be precarious to attempt here to determine the significance of these two traditions for the history of the עדה and the later Sanhedrin. It suffices for our particular problem here to have established that even in these older traditions the entrance to the sanctuary was the regular meeting-place of the supreme legislative and judicial court.) This seems to be the implication also of the provision of Num. 35.25, that the עדה shall return the manslayer whom it finds guiltless of intentional murder and therefore entitled to the right of asylum, to the city of refuge to which he had escaped. Manifestly here the עדה does not convene in the city of refuge itself to try the case there, but has the manslayer brought before it at the central place where it convenes regularly, unquestionably in Jerusalem at the Temple, and then, after its judgment is given, either turns the manslayer over to the blood-avenger to be put to death, no doubt in its presence, or sends him back, of course under proper protection, to the city of refuge, there to abide until the death of the high-priest.

Moreover, the assumption that the high-priest was the presiding officer of this court which determined the guilt or innocence of the manslayer, and sent the one whom it found innocent back to the city of refuge, to sojourn there until the death of the high-priest, establishes an added and by no means insignificant ground why the death of the high-priest relieved the manslayer of all responsibility for the death which had occurred, and permitted his return in safety to his old home. We shall see that the primary basis of this procedure was undoubtedly that the death of the high-priest was regarded as the fitting, expiatory substitute for the death of the manslayer himself. But the court which had exonerated the manslayer and freed him from the death penalty, may well have been regarded as taking upon itself, and in turn as centering in the person of the high-priest, its head, all responsibility for the death and for its proper expiation through another death. Consequently the eventual death of the high-priest may well have been regarded as a fitting substitute for the death of the manslayer himself.



is presumably, for again this condition is not presented specifically, turned over to the blood-avenger, unquestionably to be put to death summarily. If the former he is returned to the

This is obviously not the place to investigate this interesting and important matter in detail. This must be reserved for some other occasion. However, what has been brought to light here suffices to indicate the significance of the early post-exilic court, and of its organization, authority and functions, for an understanding of the actual facts about the vague and half-traditional "Great Synod" and of the evolution from it of the still later Sanhedrin. It suggests that the Biblical court, the עדה, was naught other than the "Great Synod" of rabbinic tradition, but that the two were not identified because the עדה was naturally regarded by the Rabbis as an institution of the Mosaic period and was moreover confused and identified by them with the עדה, the community itself. It suggests too that one essential difference between the "Great Synod" and the later Sanhedrin was that the former was presided over by the high-priest and was therefore a predominantly priestly institution, in which no doubt the laity had forcibly wrested a place for themselves, while the latter, presided over by the נשיא, obviously a lay official, must have been predominantly a lay institution, which had come to supersede the "Great Synod" at the time when and just because the lay party, the Pharisees, had finally acquired the ascendancy over the priestly party, the Sadducees. (Cf. also above, note 70.) In this connection it is of significance that Eduard Meyer (*Der Papyrusfund von Elephantine*, 72f.; cf. also Hölscher, *Hesekiel: Der Dichter und das Buch; Beiheft zur ZAW*, 39, 211f.) has concluded, on the basis of certain evidence in the papyri, that already in the time of Nehemiah a legislative body existed in Jerusalem at whose head at that time was Šidkiya (Neh. 10.2), while Ustan, a Davidide, was the head thereof at the time of the appeal of the Jewish community of Elephantine for aid in rebuilding their Jahwe-temple, in 408 B. C. Apparently it did not occur to Meyer to identify this legislative body with the עדה of the Priestly Code, although it must now be conceded that such identification is altogether natural and proper. However, Meyer's assumption that Ustan was the head of this legislative body in 408 B. C. would not accord with our conclusion, from the Biblical evidence, that the high-priest must have been the head of this body; nor does the evidence of the papyri substantiate Meyer's assumption, but rather it confirms our conclusion absolutely. For Papyri 1 and 2 of Sachau's publication, ll.18-19 (in Papyrus 2 ll.17-18) state specifically that the appeal of the Jews of Elephantine was sent to Johanan, the high-priest and his associates, the priests, and to Ustan the brother of Anani and the nobles of the Jews. Inasmuch as the papyri then go on to state that no reply to this appeal was received, it is clear that this was not a double appeal, but a single appeal, sent therefore to one, and not to two bodies. Accordingly the high-priest, the priests, Ustan and the nobles of the Jews together must have constituted a legislative and administrative body. Ustan may well have been the chief layman in this body, but certainly its head, as the reference to

city of refuge, there to dwell in complete security until the death of the high-priest. Only in case he should venture to leave the protecting confines of the city of refuge and the blood-avenger should chance upon him, may the latter kill him with impunity. Within the city of refuge he is absolutely safe from the latter. The death of the high-priest frees him from all responsibility for the death which he has caused and enables him to return to his ancestral home absolved from all responsibility for the death in question, and with the blood-avenger having no further claim against him recognized by the state.

The procedure seems simple and obvious enough. But it gives rise to many questions and considerations of importance. In the first place, the fact that the death of the high-priest redeems the manslayer from all consequences of and all responsibility for his act is explicable in only one primary way. Manifestly the death of the high-priest makes expiation for the blood which has been shed.<sup>104</sup> The underlying principle is that characteristic of the Priestly Code, which is stated most positively and absolutely in v. 33, viz. that blood which has been shed through manslaughter of any kind, whether through premeditated murder or accidental killing, defiles the land; and the land can not be purged of this defilement except through the blood of the manslayer.<sup>105</sup> However, in case of purely accidental killing, the

him in the first position indicates, was Johanan, the high-priest. Also Meyer's assumption that Ustan was a Davidide is precarious indeed. It rests solely upon the fact that in the papyri he is called the brother of Anani, and that in I Chron. 3.24 a certain Anani appears as a descendant of David. But there is no indication whatever there, even granting that the tradition has a historical basis, that this particular Anani lived at just 408 B. C. Moreover, in the list there given of himself and his six brothers the name Ustan does not occur. There is good reason to believe that Anani, or, what seems to be its practical equivalent, Ananiah, was not an uncommon name. There are therefore no grounds whatever for identifying this brother of Ustan of the papyri with Anani of I Chron. 3.24 and then regarding him as a Davidide.

<sup>104</sup> So also Nicolsky, *op. cit.*, 167ff.

<sup>105</sup> So also, with manifest dependence, Jubilees, 21.19; cf. Merz, *op. cit.*, 119, note 1. The same principle is expressed, though somewhat more obscurely, in Gen. 9.5-6. These two verses seem to be secondary there, since they have no essential connection with the main theme of the passage in which they are imbedded. Or, more probably, vv. 2-7 are secondary here, for they are obvi-

actual redemption or expiation may be deferred indefinitely, until eventually the high-priest by his death makes expiation for all such slayings which may have occurred during his regime. This is in full accord with the basic principle of the hierarchic system of P, that the high-priest makes expiation for the sins of all Israel and also for the sanctuary and all that is holy in Israel, and may have been defiled.<sup>106</sup> His death therefore may most fittingly have been regarded as the proper substitute for the death of all persons guilty of defiling sin, and as making full

ously dependent upon Gen. 1.29-30a, and, as I have endeavored to show elsewhere ("The Sources of the Creation Story," *AJSL*, XXXVI [1920], 192-194; cf. also Kraetzschmar, *Die Bundesvorstellung im Alten Testament*, 193f.), these verses are unquestionably secondary in their present setting. Moreover, vv. 9ff. follow immediately and logically upon v. 1, while v. 8 is probably RP, necessitated by the insertion of the secondary passage, vv. 2-7. Vv. 5-6 seem to carry the principle that human blood, when shed, defiles the earth and can be expiated only by the death of the slayer himself, to the utmost length of logical absurdity, by maintaining that, even when shed by a wild beast, the Deity will require the blood of that beast as expiation. The reason for this absurd principle, set forth in v. 6b, viz. that the Deity demands this blood, because His own image, in the man who had been slain, had manifestly been defiled, establishes beyond question the fact that it is not so much the social, human aspect of murder or manslaughter which is paramount as it is that a sin against the Deity directly has been committed, and such sin must, of course, be expiated. This is, of course, a reason for requiring the blood of the actual manslayer altogether different than that in Num. 35.33f., viz. that the land in which Yahwe dwells, defiled by bloodshed, can be atoned and purified only by the blood of the manslayer. This divergence between these two statements is further evidence of the secondary editorial character of Gen. 9.5-6.

Furthermore, in its consideration of the purely human aspect of the application of this principle, these verses seem to go to the utmost extreme by stating that even in case one brother should kill another only the blood of the former can expiate (provided, of course, that this be the meaning of the very ambiguous phrase, מִיֵּד אִישׁ אֶחָיו, in v. 5b, where it has all the earmarks of an amplifying gloss). This is contrary to the older principle enunciated already by David (II Sam. 14.1-17) and implied also in Gen. 4.12 (J), where Cain becomes merely a fugitive, i.e. a *hālī* or *ṭarīd*, according to the pre-Islamic Arabian social system (cf. Proksch, *Ueber die Blutrache bei den vorislamischen Arabern*, 31ff.; Kennet, *Bedouin Justice*, 21; for the basic general principle, however, that blood can be atoned for only by blood, cf. Canaan, "Unwritten Laws Affecting the Arab Women of Palestine," *JPOS*, XI [1931], 202.) and, moreover, a fugitive who was, under no condition, to be slain.

<sup>106</sup> Cf. Lev. 16.17, 21f., 33.

expiation in their behalf for the blood which they had shed and for the land defiled by this blood.

Moreover, the land becomes defiled through this bloodshed only because it is sacred, a holy land. And it is such only because Yahwe, Israel's God, has taken up His permanent abode in Israel's midst, therefore in the midst of the land, which is in consequence sanctified by His presence in it. This is the most absolute and unmistakable expression of this principle, basic, as we have seen, in the theology of the post-exilic period and in the hierarchical system of the Priestly Code, which we find in the entire Bible.

We have seen already<sup>107</sup> that this principle was firmly established already at the very beginning of the post-exilic period and found clear expression in the prophetic utterances of both Haggai and Zechariah. We have seen too that as the result of the logical application of this principle and its various corollaries there was a definite and far-reaching tendency toward extreme rigorism in judgment and fixing punishments for various crimes in the early post-exilic period, especially for crimes considered as of defiling character. In particular the death sentence was prescribed for many sins and crimes, which, measured by modern standards, were not of the most extreme character; and in every case this death sentence was regarded as working expiation on behalf of the people, defiled by the crime. This same principle and its practical application are most clearly apparent in the Priestly legislation for the cities of refuge, in Num. 35, particularly in the absolute prohibition of the acceptance of ransom-money in lieu of the death of the manslayer in v. 36. Ransom-money was an old institution in cases of bloodshed. Its beginnings were far back in the remote, prehistoric period of Israel's life in the desert as a nomadic or semi-nomadic folk.<sup>108</sup> With Israel's advancing cultural evolution in Palestine the acceptance of ransom-money must have become more and more general. The Book of the Covenant recognizes it as a normal and established

<sup>107</sup> "The Book of the Covenant," II, 138-147.

<sup>108</sup> Cf. Jacob, *Das Leben der vorislamischen Beduinen*, IVf., 145; Proksch, *op. cit.*, 6, note 5; Lammens, *op. cit.*, 232f.

institution.<sup>109</sup> Manifestly therefore, the prohibition in Num. 35.31 of accepting ransom-money for a murderer found by the עֵרֶה guilty of premeditated murder and consequently sentenced to death at the hands of the blood-avenger, and the insistence of the law that in every such case the murderer must be put to death, constitute clearly a most illuminating instance of this post-exilic tendency toward rigorism and the invariable exaction of the death penalty, here plainly stated to be because only through the death of the murderer in this manner could the crime be expiated and the defiled land be purified.

It is readily apparent that the basic principle is carried out in the Priestly legislation in Num. 35 fully and systematically. Every case of manslaughter, whether premeditated or accidental, must be expiated through a death; in cases of premeditated murder, by the death of the murderer; in cases of unpremeditated and accidental slaying, by the death of the high-priest, whenever that might be. Impliedly in the latter case, the land remains defiled in theory until the high-priest's death has made expiation for it; and presumably also in addition thereto the actual manslayer is a defiled person, whose very presence contaminates. Therefore his sojourn in the city of refuge is not primarily a punishment,<sup>110</sup> nor yet in order to protect him against the blood-avenger; although no doubt these considerations were not entirely absent; it is rather primarily to guard the rest of the land, the people and the central sanctuary against the contagion which the manslayer's presence in their midst would bring with it. For all this the death of the high-priest makes expiation and leaves the manslayer free to return to his old home.

Furthermore, it is not without significance that the execution of the murderer is at the hands of the blood-avenger. On the surface it would seem from this that there is as yet no official system of state-execution, but only careful and precise supervision by the state, or rather by the priestly hierarchy, of the killing of the manslayer by the blood-avenger. This is in significant contrast to the method of execution provided by the

<sup>109</sup> See Ex. 21.22, 30 and "The Book of the Covenant," II, 67, 83.

<sup>110</sup> So Merz., *op. cit.*, 122.



*mišpatim* of Deuteronomy where, in cases where the death sentence is prescribed with an expiatory purpose animating it, the execution is by means of stoning at the hands of the people at large.<sup>111</sup> This method too was regularly employed in the Priestly Code, as for example in the cases of Sabbath desecration and blasphemy which we have already considered. Only in this one specific case of the death penalty for murder is this practice deviated from, and the old institution of killing by the blood-avenger preserved. Yet it may not be without significance that the old technical term for blood-revenge, נקם, seems to be scrupulously avoided. This may indicate perhaps that the old principle of blood-revenge through the death of the slayer is after all only a secondary consideration in the Priestly form of the institution, and that the paramount principle is that of expiation for the blood which had been shed and for which and also for the land defiled by it expiation had to be made.

Perhaps too we may infer, just as we have in connection with the story of the daughters of Š'lofḥad, that here too the institution of the Jubilee and its system of land tenure and related family organization lie in the background. This seems to be the implication that at the death of the high-priest the manslayer is free to leave the city of refuge and return to his ancestral property;<sup>112</sup> for, as we have seen, the intimate and permanent association of family and ancestral property is basic to the entire Jubilee system. This consideration, as well as the fact that all the passages considered thus far are from the Priestly Code, serves to establish that all have a common social and theological background, and that a certain and quite definite unity animates them all.

Thus far the Priestly system of dealing with cases of manslaughter, of expiation therefor and of the cities of refuge for the unpremeditated manslayer, seems perfectly clear, and Num. 35 seems to be a complete literary unit. Careful analysis, however, brings to light one very significant matter, and doubly significant for our study. V. 24 states specifically that the עדה shall adjudicate the case of the manslayer who has sought asylum in a city

<sup>111</sup> "The Book of the Covenant," II, 89ff., 145, note 184.

<sup>112</sup> V. 28.

of refuge and determine whether he has the legal right to remain there until the death of the high-priest or must be given over to the blood-avenger for execution. The decision is to be reached on the basis of a group of *mišpaṭim*, presented in detail in vv. 16-23. These *mišpaṭim* fall into three carefully organized groups, each consisting of three separate *mišpaṭim*, or at least dealing with three specific cases of manslaughter. The first group, vv. 16-19, says this: If A kills B by hitting him with an iron instrument, or with a stone carried in the hand, and with which a person might readily be killed, or with a wooden instrument, with which likewise a person might readily be killed, the implication is that this is a deliberately planned murder, intentional in every way and executed in cold blood. The perpetrator, A, is therefore a murderer out and out, a רצח; accordingly blood-revenge shall be exacted against him; the right of asylum in the cities of refuge is denied him, and the blood-avenger shall kill him whenever he chances to meet him.

The second group of *mišpaṭim*, in v. 21, goes on to say this: If A kills B by giving him a push, while a state of personal enmity was known to exist between them, or by hitting him with some object thrown at him with foul intent, or by striking him a severe blow with his hand, again while a state of personal enmity was known to exist between them, then these too are cases of murder, impliedly not premeditated to the same degree as the three cases of the first group, but none the less intentional. The difference between the two groups is this; the first group deals with cases where A sets out deliberately to kill B and accordingly takes with him a weapon with which to perform the act. This is, of course, deliberately premeditated murder. The second group deals also with cases where known animosity existed between the two men, but where A attacked B, not with any weapon, but merely gave him a vigorous push, in a fight no doubt, or a forceful blow with his fist, or perhaps threw something at him, such as a stone, picked up on the spur of the moment. The implication is that such a killing was not premeditated in the strict sense of the word, since A obviously did not set out with the deliberate intention of killing B. None the less the well-known enmity existing between them made it

certain that the killing, even though not actually premeditated, was at least intentional, that A experienced a certain satisfaction therein, that, in other words, this was a case of murder with malicious intent, *בצדקה*, to use the technical expression in v. 20, even though without deliberate premeditation. This too was therefore a case of downright murder, and in these cases too the murderer is denied the right of asylum in the cities of refuge, but is instead subject to death at the hands of the blood-avenger whenever the latter may chance upon him.

The third group of *mišpatim*, in vv. 22-23, deals with cases of purely accidental killing, where the two men were not known to be enemies or to be ill-intentioned towards each other, and where A merely happened to give B a sudden and unforeseen push or a blow with some instrument which he chanced to be carrying, but plainly without malicious intent, or he cast a stone and merely by chance it happened to strike B and kill him. These are all cases of sheer accident and no blame attaches to A therefore. None the less, by the principle of blood-revenge he is subject to death at the hands of the blood-avenger; and not merely that alone, but also, in accordance with the basic, post-exilic, theological principle, that even by blood shed through sheerest accident the land is defiled and therefore must be purified through corresponding blood shed or a death suffered in expiation, he is, in theory at least, subject to death. Yet basic considerations of ethics and enlightened justice demand that his life be spared. Accordingly in cases of sheerest accident, but only in such cases, A has the right of asylum in a city of refuge; and there he may remain until the death of the high-priest serves as proper expiation for his act. Then he may return to his ancestral home. But should he chance to leave the protecting precincts of the city of refuge during the period of his enforced sojourn there, and the blood-avenger chance upon him and kill him, not only would the latter be regarded as being entirely within his rights, with no blame consequently attaching to him, and with no additional defiling of the land through this killing, but the death of the manslayer in this manner would be regarded as serving the ultimate purpose of making proper expiation for the first death, that of B, and thus the land would actually be purified.

In accordance with these *mišpaṭim* and their underlying principles the עֵד was to determine the right of a manslayer to asylum in a city of refuge. Accordingly we can understand fairly well why this entire institution and the complete body of legislation governing it should be termed, in v. 29, a *ḥuqqat mišpaṭ*, again with the combination of the two specific terms for law.<sup>113</sup> Presumably the entire Priestly institution in its legal aspect and formulation was a *ḥuqqah*, while the fact that within the *ḥuqqah*, or perhaps better, supplementing and completing it, a body of *mišpaṭim*, as v. 23 specifically designates them, was incorporated, made of the entire piece of legislation a *ḥuqqat mišpaṭ*.

Apparently, as we have said, the entire piece of legislation is simple and unified. But careful analysis reveals several significant discrepancies. In the first place, it is noteworthy that these *mišpaṭim* are introduced suddenly in v. 16, with absolutely no preparation, with no logical or systematic introduction and with no connection whatever with what immediately precedes, or for that matter, with naught but the very loosest and unsyntactical connection with anything at all which follows. At the very most they may be regarded as having an extremely loose connection with or dependence upon v. 12b; but a careful analysis of the entire passage suggests that v. 12b may itself be secondary here.<sup>114</sup> Moreover, the form of the first *mišpaṭ*, beginning, as it does, not with כִּי, but with וְ, and particularly where the ו can connect with absolutely nothing which precedes, suggests, in the light of what we have already learned of the characteristic form of *mišpaṭim*, and particularly of the *mišpaṭim* in the Book of the Covenant,<sup>115</sup> that this and the subsequent *mišpaṭim* here are not original here, but were instead originally the subordinate conditions in a *mišpaṭ* of broad compass, which began, in char-

<sup>113</sup> Cf. above, note 70.

<sup>114</sup> Quite as if it were RP and inserted here editorially in order to pave the way for the further insertion of vv. 16-23. Certainly v. 12 parallels and to a certain extent duplicates v. 11bα, and it is difficult to determine which of the two is original and which secondary. Moreover, it is clear that v. 24a is the actual and immediate continuation of v. 12, while v. 24b may well be RP.

<sup>115</sup> "The Book of the Covenant," II, 31f.

acteristic manner with כִּי followed by the third person, and laid down the general principle that blood-revenge must, or perhaps better, may be exacted in cases of blood-revenge, which went on further to provide for the general principle of asylum, and then, in the series of subordinate *mišpaṭim* listed here, determined exactly what group of manslayers was entitled to the right of asylum and what group or groups were not. Perhaps also, as the reference to ransom-money in v. 31 suggests, this original *mišpaṭ* may likewise have made provision, in an additional subordinate condition, for the payment and acceptance of ransom-money and the conditions which governed this procedure.

All this is the implication of the sudden, unexpected and surprising introduction of the *mišpaṭim*, with the significant introductory word, וְאִם, in v. 16. And if this interpretation be correct, it means that vv. 16–23 are not original here, but were borrowed by Priestly authors or editors from some other, and presumably older source, borrowed, as we shall see, practically verbatim, and incorporated here because they expressed exactly a principle essential to the system of blood-revenge, asylum and expiation for the land, which these Priestly writers were sponsoring, and for which, no doubt, they gladly sought a sanction and support in older legislation, particularly in legislation which was, in all likelihood, attributed to Moses.

Careful consideration confirms this entire conclusion absolutely. In the first place it is noteworthy that in this chapter two distinct terms are employed to designate the murderer, רֹצֵחַ and מַכֵּה נֶפֶשׁ. In those sections of this chapter which belong unquestionably to the Priestly Code both terms are used; but it is not without significance that in v. 11 the term רֹצֵחַ is interpreted, or perhaps better qualified, by the synonymous or partially synonymous term, מַכֵּה נֶפֶשׁ בְּשֹׁנָה, quite as if the exact connotation of the former term were no longer clearly understood and therefore required interpretation, or, on the other hand, as if the term רֹצֵחַ did not fit exactly into the Priestly scheme of the cities of refuge and their use, and therefore required qualification. Moreover, it is even more significant that in the *mišpaṭim* themselves, in vv. 16–23, only the term רֹצֵחַ is used and the term מַכֵּה נֶפֶשׁ occurs not even once. Furthermore, it is clear that the



immediate import of the *mišpaṭim* in vv. 16–23 is to define exactly who is a רצח and who is not a רצח, with the implication that the רצח, regardless of whether he comes under the head of intentional and premeditated murderer or merely under that of intentional but unpremeditated murderer, may not enjoy the right of asylum, while the manslayer who is in no sense a רצח, may enjoy the right of asylum. This implies that the original *mišpaṭ*, of which, we have suggested, these *mišpaṭim* here were the continuation, must have stated as a general principle that the רצח<sup>116</sup> was debarred from the privilege of asylum, while the man who killed another without malicious intent, בלא צדיה, was entitled to the privilege of asylum. Such a general statement would have necessitated precisely such interpretative amplification as vv. 16–23 would offer. But from this it is clear that רצח is, at least as used in these *mišpaṭim*, a technical term, designating a particular kind of manslayer, and is not at all a general term as it seems to be in those passages of this chapter in which it is used, which come unmistakably from P, viz. vv. 11, 12, 25,<sup>117</sup> 26, 27, 28, 30, 31. In particular, the facts that in v. 11 the priestly authors or editors equate רצח with מכה נפש בשגגה,<sup>118</sup> and that in v. 31 they speak of the רצח אשר הוא רשע למוֹת, and impliedly contrast him with the רצח who is a מכה נפש בשגגה, indicate that to these Priestly writers רצח was a generic term for a manslayer of any kind, regardless of the character of the killing, and that accordingly they use the term in quite a different sense than that in which the *mišpaṭim* use it.

However, within vv. 16–23 themselves there are certain discordant elements. In v. 21 for example, the words מות יומת המכה clearly interrupt the context and are out of place. In the preceding group of *mišpaṭim*, in vv. 16–18, the corresponding clause, מות יומת הרצח, follows upon the words רצח הוא. This is in a sense the logical order of thought, since the words, רצח הוא, in vv. 16aβ, 17aβ, 18aβ, clearly constitute the apodosis to the condition

<sup>116</sup> Probably implied, as we shall see, in the use in the *mišpaṭ* of the verb רצח in some appropriate form.

<sup>117</sup> In v. 25 Sam. reads המכה for הרצח of MT. המכה was probably original, since the entire verse is obviously P.

<sup>118</sup> So also in Josh. 20.3, 9, manifestly dependent upon this passage.

of each of these three *mišpaṭim*. We would therefore expect the same sequence of thought in v. 21. The present sequence is illogical and suspicious. Moreover, the very form of the intervening clause, מות יומת המכה, couched, as it obviously is, in the characteristic form of a *ḥoq*, is even more suspicious. It seems decidedly out of place in a *mišpaṭ*. This consideration applies equally, of course, to vv. 16b, 17b, 18b, in all of which again the *ḥoq* appears in conjunction with the *mišpaṭ*, although in these verses the term רצח is used, just as in the *mišpaṭ* proper, in contrast to המכה in v. 21.<sup>119</sup>

Moreover, it needs but a moment's thought to make it clear that the provision, מות יומת הרצח or המכה, is decidedly out of accord with the *mišpaṭim*, or better, that the *mišpaṭim*, with their repeated provision that the blood-avenger shall put the murderer to death whenever he chances upon him, are decidedly and uncompromisingly out of accord with the provision, מות יומת הרצח, and also with the spirit and purpose of the entire chapter. For certainly מות יומת הרצח can be translated in only one way, "the murderer must be put to death." This is the force of the infinitive absolute here. Under no condition may the clause be rendered, "the murderer may be put to death," or "the murderer is subject to death," of course at the hands of the blood-avenger. For not only would this fail completely to convey the implication of the intensive use of the infinitive absolute, but it would fail equally to comport with the spirit and aim of the entire chapter and the institution which it fosters. For, as we have seen, this aims to bring about with absolute certainty the death of the wilful murderer, and even of the unintentional murderer under certain conditions. This is necessitated by the consideration that the land has been defiled by the blood which

<sup>119</sup> Of course in v. 21, with the present thought sequence no term other than המכה could have been used. It is used here, not in the generic sense of "murderer," characteristic of the other distinctively P passages of this chapter, but is dependent upon הכהו earlier in the verse, and is therefore used in the specific sense, "the one who struck him." However, had the same thought sequence been employed in this verse as in vv. 16-18, there would have been no reason whatever why הרצח could not have been used here also, precisely as in those verses.

has been shed, and only the death of the murderer can make expiation for this; and such expiation is absolutely indispensable if Yahwe is to continue to dwell in the midst of the land and to extend His protection and favor unto Israel. It is clear therefore that the provision that even in the case of premeditated murder the murderer, denied the right of asylum in the cities of refuge, shall be put to death by the blood-avenger whenever he shall chance upon him, would not suffice at all to work the necessary expiation. A considerable time might elapse before the blood-avenger might chance upon the murderer, and during all this time the land would necessarily remain defiled and unexpiated.

Furthermore, there was no absolute assurance that even when the blood-avenger did chance upon the murderer he would be able to put him to death. Not impossibly the murderer might prove himself stronger than the blood-avenger, and, unless the state supported the latter in some way, which is nowhere intimated, the murderer might in self-defense even slay the blood-avenger, since it is hardly to be presumed that the murderer would meekly submit to execution at the blood-avenger's hands; and in such case the land would become doubly defiled. Manifestly the procedure which the *mišpaṭim* prescribe is altogether out of accord with the underlying theological principle and basic practical aim of this chapter. Clearly these *mišpaṭim* do not belong here. They are the outgrowth of an altogether different age with a radically different social and theological background than the body of this chapter has. This chapter, with its basic theological principle and definite, practical aim, demands that the execution of the murderer be made absolutely certain. Under no condition may it be left to chance; nor may there be any possibility whatever of the slightest unnecessary delay in the execution, for the defilement of the land must be expiated as speedily and surely as possible. The murderer must be put to death. And just this is, as we have seen, the exact import of the phrase *מוֹת יוֹמָת*; and this too makes clear the significance of the fact that, as we have seen also,<sup>120</sup> this phrase, *מוֹת יוֹמָת*, with the infinitive absolute reenforcing the imperfect so strongly that the

<sup>120</sup> "The Book of the Covenant," II, 56-63.

action contemplated in the latter becomes an absolute certainty, is found only in post-exilic literature; for, as we have seen, it is only in this period that the theological doctrine that Yahwe had taken up His permanent abode in the midst of the land, and had thus sanctified it by His presence, and that in consequence every defiling crime and sin must be expiated by the certain death of the criminal, had become firmly established. And it is beyond question that this is the implication and the theological background of the oft-repeated provision of the Priestly Code, מות יומת, as well as, as we have seen also,<sup>121</sup> of the post-exilic Deuteronomic motivation of the death-penalty for various sins and crimes, ובערת הרע מקרבך.

Unquestionably therefore these *mišpaṭim* in vv. 16a, 17a, 18a, 19, 20, 21aαγb, 22, 23, are not original here, but were borrowed by the priestly authors or editors of this chapter from some older source. What could this source have been? There can be only one answer to this question.

We have already concluded, on the basis of altogether different considerations, that Ex. 21.12, couched in characteristic *hoq* form, is not original there, but represents a substitution for an older *mišpaṭ* which stood there originally, and which was no doubt original in the Book of the Covenant, and in full accord as to form, content and social background with the other *mišpaṭim* found therein. We have even gone so far as to suggest, on the basis of our conclusion that the phrase מות יומת was otherwise found only in post-exilic literature, that the substitution of this *hoq* for the original *mišpaṭ* must have been the work of some post-exilic writer or legislator, in all probability therefore one belonging to the Priestly school. Our analysis of Num. 35 confirms this hypothesis in startling manner.

We are now in position to return to Ex. 21.12-14 and take up our analysis of those three verses in a new light, with a view to determining, so far as this may be possible, what the form and content of the *mišpaṭ* which stood there originally may have been. As we have concluded, the *hoq* in v. 12 is certainly a post-exilic substitution, presumably by Priestly editors, for the opening

<sup>121</sup> *Ibid.*, 145-147.

statement of the original *mišpaṭ*, in which the general principle of blood-revenge for murder must have been stated. We have already attempted to reconstruct the presumptive reading of this.<sup>122</sup> However, on the basis of the evidence, newly-gathered, from our analysis of Num. 35, we would modify slightly the reading there proposed. For, as has been said already, if we grant that Num. 35.16-23 (in the main) stood originally in Ex. 21, as an integral part of the *mišpaṭ* beginning with v. 12, then the fact that in those verses רצח is used, manifestly as a technical term, implies that in the statement of the general principle of blood-revenge at the beginning of the *mišpaṭ* the verb רצח must have been used.

We have also concluded, and our analysis of Num. 35 confirms this conclusion, that, after the statement of the general principle that for murder blood-revenge shall be exacted, the *mišpaṭ* must have gone on to express, in the form of a subordinate condition, probably introduced in characteristic manner by וְאִם, the principle of asylum. And since this *mišpaṭ*, integral in C, is unquestionably older than Deuteronomy, the place of asylum must have been, not a city of refuge, nor yet the central sanctuary at Jerusalem, but any local shrine, and particularly the largest and most important shrines. Thereupon must have followed, again in the form of subordinate conditions, the determination of those who were entitled to the right of asylum and those who were debarred from this right, and the procedure with each group; or, equally possibly, the order may have been reversed and the first statement may have been of those debarred from the right of asylum and the procedure with them, and thereupon the statement of those who enjoyed the right of asylum and the procedure with them. Moreover, it is clear that this *mišpaṭ* must have accorded fully in all its principles and conditions with the spirit and practice of the other *mišpaṭim* of C which have to do in any way with the principle of blood-revenge.

Now in the present law, in vv. 12-14, it is clear that v. 13 states the second basic principle of the law of blood-revenge, viz. the principle of asylum, but in language which contains only

<sup>122</sup> *Ibid.*, 61-62.



a reminiscence of what the original reading must have been. V. 14 then seems to continue the thought logically, and to state in a general way the principle that the premeditative murderer shall be debarred from the right of asylum. But again it is clear that some editorial liberties have been taken with the original language.

Now a moment's thought shows that Num. 35.16-23 (in the main) fits perfectly after Ex. 21.14a. But granting this, it becomes clear that Ex. 21.14a did not express originally a general statement, covering the entire condition of premeditated murder, as it seems to do now when standing alone, but that it was merely another, and the first, specific instance thereof, altogether of the same character and import as the next three instances, in Num. 35.16-18. And careful consideration shows that this must indeed be so; for certainly bringing about a man's death through treachery or cunning planning was by no means the only method of deliberate murder, because of which a man was debarred from the right of asylum. Striking a man with an iron, stone or wooden weapon, with which a death-blow could easily and normally be inflicted, was equally a case of premeditated murder, as we have seen, even though it could hardly be classified under the head of killing through treachery or cunning planning. It is clear therefore that Ex. 21.14a could not actually have been intended originally as a general statement for all cases of premeditated murder, but must have been simply a case alternative to the three cases listed in Num. 35.16-18.

But granting this, it becomes clear that the original continuation of Ex. 21.14a could not have been what it is at present, but must have been precisely the same as the continuation of the three *mišpaṭim* in Num. 35.16-18, viz. the words רצח הוא. The actual procedure with the murderer, thus denied the right of asylum, is then fully provided for in Num. 35.19 and 21a, and the statement of the *mišpaṭ* of this particular phase of the law is perfectly complete. This conclusion is confirmed, not only by the fact that, as we shall see in due time, the use of the pronominal suffix of the first person, referring to the Deity, in מובחי, and the use of the second person singular in תקחו, indicate late Deuteronomic editorial revision, but also and even more by the

fact that the statement that the premeditative murderer shall be taken from the altar to die implies, so it would seem, that his death is thereby assured, and not left to chance at all, in other words that it implies state execution, or at least state supervision thereof, in still other words, that it implies the point of view of the final Priestly revision, connoted by the words מוֹחַ יוֹמָהּ of v. 12, and not at all the point of view of the original C *mišpaṭ* that blood-revenge shall be exacted by the blood-avenger, of course when and if possible.

Accordingly we may reconstruct the original *mišpaṭ* of C in much this manner, and feel that we have approximated what must have been the original reading fairly well, and as closely as possible: כִּי יִרְצַח אִישׁ אֶת רֵעֵהוּ וְנָקָם יִנָּקֶם: <sup>123</sup>וָאֵם לֹא צָדָה <sup>124</sup>וְאֱלֹהִים <sup>125</sup>

<sup>123</sup> Presumably the original reading was וָאֵם, precisely as in all other C *mišpaṭim*. For וָאֵשֶׁר as a not uncommon substitute in P for וָאֵם, as the introductory particle of a subordinate condition, see "The Book of the Covenant," II, 123. וָאֵשֶׁר here is therefore unquestionably RP and further evidence of the P revision of this *mišpaṭ*.

<sup>124</sup> Notice צָדָה here and צָדִיה in Num. 35.20, 22 and that these are the only occurrences of this stem in the entire Bible. This may be regarded as some slight additional confirmation of our conclusion that Num. 35.16–23 (in the main) is an integral part of the original *mišpaṭ* here.

<sup>125</sup> For the reading וְאֱלֹהִים instead of וְהָאֱלֹהִים of MT, see "The Book of the Covenant," II, 62, note 57. It may be thought at first that וְאֱלֹהִים אָנָּה לִירוֹ does little more than repeat the thought of לֹא צָדָה וָאֵם, and that therefore, in view of the characteristic conciseness and lack of redundancy of the C *mišpaṭim*, which we have established (*ibid.*, 209f.), this phrase may well be regarded as an amplifying gloss. Further consideration, however, refutes this thought. For it is clear, on the one hand, that וְאֱלֹהִים אָנָּה לִירוֹ really adds something specific and positive to the negative thought of לֹא צָדָה וָאֵם, fixes, as it were, the responsibility for the slaying away from the actual manslayer himself and upon some impersonal and irresponsible force, some deity or evil spirit or chance, whatever it may have been. And, on the other hand, it is clear that the combined phrases, וָאֵם לֹא צָדָה וְאֱלֹהִים אָנָּה לִירוֹ, describe exactly the cases listed in Num. 35.22–23, and state in anticipation the reason why the manslayer need not be held responsible, and so subject to blood-revenge, for accidental killings of that character. This consideration tends to establish still more strongly the essential unity of Num. 35.16–23 with the original C *mišpaṭ* here.

The editorial change of an original וְאֱלֹהִים to וְהָאֱלֹהִים would have been altogether natural and expected in the post-exilic period, when, following the

אנה לידו ונס אל מזבח (or מקום<sup>126</sup>) : . . . . ואם<sup>127</sup> יזר איש על רעהו להרגו בערמה רצח הוא: ואם בכלי ברזל הכהו וימת רצח הוא: ואם באבן יד אשר ימות בה הכהו וימת רצח הוא:<sup>128</sup> או בכלי עץ יד אשר ימות בו הכהו וימת רצח הוא: גאל<sup>129</sup> הדם הוא ימית את הרצח בפגעו ברי<sup>130</sup> הוא ימיתו: ואם בשנאה יהפגנו או השליך עליו בצדיה וימת: או באיבה הכהו בידו וימת רצח הוא גאל הדם ימית את הרצח בפגעו בו: ואם בפתע בלא איבה הדפו או השליך עליו כל כלי

doctrine of Deutero-Isaiah, the theological principle was firmly established that there was no god other than Yahwe Himself, and that everything which transpired emanated from Him in accordance with His all-wise purpose.

<sup>126</sup> מקום of course with the meaning, "sanctuary;" cf. also Ex. 20.24b. In all likelihood מקום, rather than מזבח, was the original reading here; this would account for the retention of the word in the present re-edited text.

<sup>127</sup> According to the characteristic form of the *mišpaṭim*, and especially those of C (see "The Book of the Covenant," II, 31f.), this subordinate condition should begin with ואם. Not impossibly וכי here, in place of ואם, may be due to editorial revision, to the realization that every true *mišpaṭ*, particularly those of pre-exilic origin, began with כי; and since editorial revision had removed כי from vv. 12 and 13, it took the additional liberty of changing the original ואם here to וכי, in order to make this verse seem at least to conform to the traditional *mišpaṭ* form. There can be no question that, if we grant the original unity of this entire *mišpaṭ*, וכי here is certainly out of place and ואם would be the particle expected.

<sup>128</sup> או here in place of ואם is altogether natural, precisely as in vv. 20, 21, 22 and 23. At the same time, since the conditional sentence immediately preceding is perfectly complete, with apodosis as well as protasis clearly stated, ואם rather than או might have been expected. Accordingly the use of או here parallels exactly its use in Ex. 21.31 and 36, and not only suggests that in all these cases או is original and need not be emended to ואם, but also that it may be regarded as further indication of the literary affinities and consequent unity of Num. 35.16-23 (in the main) with the *mišpaṭim* of C.

<sup>129</sup> גאל הדם was unquestionably the old name for "blood-avenger" already in pre-exilic times, and not מנקם or נקם, as might be surmised from the technical use of the verb in relation to blood-revenge (cf. "The Book of the Covenant," II, 59, note).

<sup>130</sup> Here too, it might be argued, there is needless verbosity, not at all characteristic of the *mišpaṭim* of C, and that the words הוא ימיתו may well be regarded as a gloss. The resultant reading would then coincide practically with the rendering of the same thought in v. 21b. However, this conclusion is not at all necessary nor even justified, for v. 19a actually determines who shall put the murderer to death, viz. the blood-avenger, while v. 19b in turn determines when he may do this, viz. whenever he chanced to meet him.

בלא צדיה: או בכלי אבן<sup>131</sup> אשר ימות בה בלא ראות ויפל עליו וימת והוא לא אויב לו ולא מבקש רעתו<sup>132</sup> : . . . . .

It is clear that this *mišpaṭ*, thus reconstructed, is complete in every respect except for one, or possibly two lacunae. We would expect that the provision of the *mišpaṭ* that the manslayer, not guilty of premeditated murder, may find asylum at one of the local shrines would be followed by a brief statement as to what the procedure should be after his arrival there. This is, however, not absolutely essential, and the *mišpaṭ* might well be regarded as complete without this statement. More essential seems to be a statement at the very end of the *mišpaṭ*, now missing entirely, which provided for the procedure with the unintentional manslayer. For, as has been said already, it is safe to presume that the C legislation did not contemplate that the unintentional murderer should remain interned permanently in the sanctuary in which he had sought asylum. That must have been merely a temporary place of refuge, which provided an escape from the first passion of the blood-avenger and an opportunity for the relatives of the manslayer to negotiate with the blood-avenger and his family and reach some mutually satisfactory agreement with regard to the settlement of the blood-feud, presumably through the payment of ransom-money, precisely in the manner described in Ex. 20.30 and implied also in v. 22,

<sup>131</sup> It is significant that this is not an *אבן יד אשר ימות בה*, "a stone implement, carried in the hand, with which a man might be killed," in other words, a stone hammer, for example, as in v. 17, but is *אבן אשר ימות בה*, "any kind of stone with which a man might be killed," in other words, a stone picked up from the ground where it happened to be lying ready to hand at that moment. The carrying of the stone implement is construed to imply premeditation and intent to murder, while to pick up a chance stone from the field implies lack of premeditation. It may have resulted from momentary, though unforeseen, passion, as in v. 20, or, as here, by merely a chance or playful act. Manifestly this rather fine-haired, legal distinction is precisely the same as that underlying Ex. 21.18–21 (see "The Book of the Covenant," II, 64). This is further indication that a common legal point of view underlies the *mišpaṭim* in C and in Num. 35.16–23 (in the main) and further proof of their original literary unity.

<sup>132</sup> Contrast with this phrase the characteristic Deuteronomic formula for the same thought, *כי בבלי דעת הכה את רעהו ולא שנה הוא לו מחמול שלשום* (Josh. 20.5b; cf. Deut. 19.6). Clearly these *mišpaṭim* in Num. 35.16–23 are not D.

and still current in Islamic countries today.<sup>133</sup> Just such a statement is necessary to round out the *mišpaṭ* perfectly and to make its thought concur completely with all other statements in the C legislation bearing upon the practice of blood-revenge.

Summing up our conclusions thus far, it appears that the *mišpaṭim* in Num. 35.16–23 (in the main) are in perfect accord with the *mišpaṭim* of C both in form and spirit and also in social and legal background. The institution of blood-revenge is basic to both groups of *mišpaṭim*, and blood-revenge in a stage of its evolution decidedly older than that of P, and, at least in one specific respect, viz. the place of refuge, older also than that of D. The same fine-haired, legal distinctions with regard to the weapon with which the slaying is committed and the implications of this as indicative of premeditation and intent or lack of these motives is present in both groups of *mišpaṭim*. Furthermore, as we have seen, the thought of Ex. 21.13a anticipates exactly the kind of slaying described in Num. 35.22–23, while Ex. 21.14a, altogether incomplete in itself, as we have shown, fits in perfectly with Num. 35.16–18 to make a complete and well-rounded thought.

Even more significant perhaps is the important fact that we can trace a definite and systematic development in the manner of disposal of the intentional, premeditative murderer. Num. 35.19 and 21b state, or at least imply very clearly, that such a murderer is merely denied the right of asylum and that accordingly, sent away from there, the blood-avenger may kill him whenever and wherever he may chance upon him with, of course, the implication that this ends the affair, and that no further and counter-blood-revenge may be exacted. In other words, the state regulates with this law all cases of blood-feud and determines and enforces just how far they may go. But it does not guarantee at all that blood-revenge will surely be exacted. This is left more or less to chance and the desire and also the superior power of the blood-avenger, with, of course, the contingency that blood-revenge might not be exacted at all. Manifestly the prime interest of the state is not to see that blood-revenge is

<sup>133</sup> Cf. "The Book of the Covenant," II, 67, note 70.



certainly exacted, but rather to make sure that the blood-feud does not go too far.

Deut. 19.12 and Josh. 20.5,<sup>134</sup> on the other hand, provide explicitly that the intentional and premeditative murderer, denied the right of asylum in one of the cities of refuge, is to be handed by the elders of his own town over to the blood-avenger to be put to death, unquestionably to be put to death immediately and without any possibility of delay or chance affecting the outcome of this procedure. Here, it is clear, the state guarantees that in the case of intentional and premeditative murder, blood-revenge will surely be exacted.

And finally, as we have seen, the מוֹת יוֹמָה of the prescription of the Priestly Code implies unquestionably execution by the state, or at least under direct state supervision, and with all possibility of delay or of miscarriage of the execution obviated. Manifestly there is a steadily progressive evolution of the institution of blood-revenge here in these three documents; and unquestionably the oldest stage is that pictured in Num. 35. 19 and 21a.

Unquestionably therefore these verses can belong to neither D nor P.<sup>135</sup> They must come from some older source; and, unless we desire to posit some other older Biblical source of legal character which dealt likewise with the institution of blood-revenge, an altogether unnecessary and precarious assumption indeed, we must conclude that these *mišpaṭim* in Num. 35.16–23 (in the main) must have stood originally in C, and must have been borrowed from there by late Priestly editors, precisely as they borrowed from Deut. 19 two verses which, as we have seen, stood originally after v. 6 there, and incorporated them into the Priestly provision for the cities of refuge in Josh. 20.4–5. As we have seen, Num. 35.16–23 (in the main) fits perfectly to Ex. 21.14a. We may therefore, in the light of all this cumulative

<sup>134</sup> Further and very compelling proof of the correctness of our conclusion ("The Book of the Covenant," II, 204, note 259a) that Josh. 20.4–5, and perhaps also 6aα, stood originally in Deut. 19.

<sup>135</sup> Weismann (*op. cit.*, 74; cited from Merz, *op. cit.*, 131), although a jurist, and not primarily a Biblical scholar, also reached the conclusion that the work of several authors is present in Num. 35.16–23.

and significant evidence, regard our conclusion as established with reasonable certainty that Num. 35.16-23 (in the main) was originally a part of C and stood immediately after Ex. 21.14a. This gives us then another characteristic C *mišpaṭ*.

A moment's thought shows that in this *mišpaṭ* the institution of blood-revenge is still in fairly primitive stage. It is still a basic principle in the social organization of the time. Apparently too the practice of accepting ransom-money is firmly established, as is also the institution of asylum at the local sanctuaries. Recognizing these facts the fundamental purpose of the *mišpaṭ* becomes perfectly clear. It is not at all, as it is generally interpreted, and as seems at first sight to be the case, to ameliorate the old, mechanical, ruthless institution of blood-revenge by inaugurating the institution of asylum at a sanctuary, and then determining just what class of manslayer has the right of such asylum. On the contrary, the institution of asylum at a sanctuary is undoubtedly of great antiquity, and was unquestionably current among the pre-Israelite Canaanites,<sup>136</sup> and was taken over from them, along with the local shrines themselves, by the Israelites. This fact is evidenced, in part at least, by the well-known procedure of Joab.<sup>137</sup> Certainly the institution of asylum at a sanctuary was firmly established in Israel long before the compilation of this *mišpaṭ*.

But granting that, it is clear that the basic purpose of this *mišpaṭ* is to restrict the right of asylum to only one specific and limited class of manslayers. Impliedly, the right of asylum had

<sup>136</sup> So also Löhr, *Das Asylwesen im Alten Testament* (Schriften der Königsberger Gelehrten Gesellschaft, 1930), 206-209.

<sup>137</sup> I Ki. 2.26-34. An illuminating parallel instance of disregard of the right of asylum at an important sanctuary is recorded by Damiri (*Ḥayātal-Ḥayawān*, ed. Cairo, 1330 A. H., pp. 539f.; translation of Jayakar, I, 698f.). It tells how Miḳyas b. Subābah, who had killed his comrade upon a journey undertaken to exact blood-revenge for the slaying of his brother, sought refuge in Meccah. But when Mohammed captured Meccah, although he had guaranteed security to its inhabitants, he seized Miḳyas, despite the fact that he had sought asylum in the Ka'aba and was holding on to its curtain, and put him to death. For the practice in modern Palestine of seeking asylum in a *weli* or shrine and feeling oneself perfectly safe there, cf. Canaan, "Mohammedan Saints and Sanctuaries in Palestine," *JPOS*, IV (1924), 4.

been employed quite freely by manslaughterers of all classes, but, measured by the progressive standards of an evolving social justice, had come to be regarded as being thus abused and the ends of social justice defeated. Accordingly this *mišpat* defines exactly just who may enjoy the right of asylum. And, it is readily apparent, it draws its lines very narrowly. It divides, quite systematically and in accordance with characteristic legal thought, all manslaughterers into three classes, (a) premeditative and intentional murderers, (b) intentional but non-premeditative murderers,<sup>138</sup> and (c) simple manslaughterers, who have killed by

<sup>138</sup> Both groups specifically designate the murderer as רצח. It is extremely significant that in Moslem law the same threefold classification of homicide is made. Damiri records (*op. cit.*, 538; Jayakar, 696f.): A purely unintentional homicide (الحطأ المحض) is that, in which it is not intended to strike a certain person, but it is originally intended to strike something else, and accidentally the stroke falls upon that person, from which he dies; there is no retaliation for it on the perpetrator of it, but a light blood-wit is due from him (the murderer's) relations on the father's side, the payment of which may be deferred for three years, whilst it is obligatory to give in expiation out of all kinds of his property. The semi-intentional homicide (شبه العمد = *resembling intentional*) is that, in which it is intended to strike a certain person with something, by the striking with the like of which, the like of that person would most probably not die; for instance, if a person strikes another person with a light stick or a small stone one or two strokes, as the result of which the latter or the person that is struck dies, there is no retaliation for it, but a heavy bloodwit is due from the relations of the perpetrator of the deed on the father's side, the payment of which may be deferred for three years. The purely intentional homicide (العمد المحض) is that, in which one intends to kill a certain person with something which is mostly used intentionally for killing, such as a sword or a knife or things like those; there is retaliation for it if there is an equality of position between the parties, or a heavy bloodwit to be paid immediately out of the property of the murderer.

It is clear from this that not only is the same threefold classification of homicide made in Moslem law as in the Biblical *mišpat*, but also that in both practices the intent to commit murder is determined almost entirely by the manner in which the death blow is administered, and particularly by the consideration whether the weapon with which the blow is struck is one with which death is caused normally or only accidentally. Agreement so close as this can hardly be accidental; nor yet may we presume that in this case Moslem law borrowed from the much older Biblical law. Rather we must realize that here we have another, and a very illuminating and convincing instance of both the Biblical *mišpat*, and the Moslem legal practice going

sheer accident and without the slightest intent or premeditation whatsoever. It limits the right of asylum to only this third class, and specifically debars the first two classes from this privilege. It is clear that this *mišpaṭ* is quite rigorous in spirit, and that it seems designed to correct what was an oppressive evil of its day. Furthermore, it implies a definite and rigid state supervision of all slayings and determination by properly constituted authorities of the exact character and degree of guilt. Such a system points, on the one hand, as has been said, to a steadily evolving social conscience, and on the other hand, to a well organized and administered legislative and judicial system, backed by a strong internal government, fostered unquestionably by an able, energetic and positively-minded monarch. Moreover, the threefold classification of manslaughter which the *mišpaṭ* makes evidences a highly developed legalistic acumen, obviously the product of a long and well organized judicial system and a rich and creative legislative experience. All this fits perfectly, as we have seen, to the reign of Ahab,<sup>139</sup> and may perhaps be regarded as furnishing some additional, slight confirmation of our conclusion that the Northern *mišpaṭ* codex, from which the *mišpaṭim* in C were drawn, was compiled during the reign and under the supervision of this efficient monarch.<sup>140</sup>

Moreover, with the obvious cultural progress of the age which called forth the compilation of this particular *mišpaṭ* and of the entire Northern *mišpaṭ* codex, it is clear that the institution of

back to primitive Semitic custom, further evidence of our conclusion ("The Book of the Covenant," II, 241-247) that the *mišpaṭim* of C are in no wise directly borrowed from or otherwise dependent upon any Old Oriental laws or law-codes, but that, so far as these various Old Oriental law-codes, C among them, have any laws or institutions in common, they developed all in practically similar manner out of a common origin in primitive Semitic life and custom.

<sup>139</sup> The prophetic activities of Elijah, and particularly his denunciation of Ahab for the murder of Naboth may be regarded as expressive of this developing social conscience. Likewise the manner in which Jezebel brought about the death of Naboth is indeed an illuminating illustration of Ex. 21.14a, "when a man plots against another to kill him through deceit."

<sup>140</sup> "The Book of the Covenant," II, 249-256.

blood-revenge itself had advanced to a marked degree beyond its primitive stage. True, it was still a basic social institution, and it was still the sacred duty of the blood-avenger to put the actual murderer to death. But seemingly it was only the actual murderer, and no longer any member of his family or clan, who was to be killed; and seemingly too the duty of blood-revenge was limited to the nearest male relative of the slain man, known technically as גואל הדם, literally, "the redeemer of the blood," and was not incumbent, at least not in the sight of the law, upon any other member of the slain man's family or clan. Apparently too the practice of accepting ransom-money was contemplated in the *mišpaṭ*.<sup>141</sup> But in all probability the *mišpaṭ* defined exactly the cases in which ransom-money might be accepted, and limited this to only the third class of slaying, viz. purely accidental killing, for otherwise the distinction which it makes between the three classes of manslayer, and the denial of the right of asylum at the sanctuary to the first two classes, would have had little or no practical import. By implication therefore the *mišpaṭ* forbade the acceptance of ransom-money in the first two cases of downright murder. Thereby it regulated with extreme and characteristic legal punctiliousness the entire procedure in the case of manslaying. It provided that in the two cases of downright murder which it described, ransom-money might not be accepted nor might the murderer enjoy the right of asylum, but the murderer must be subject to death at the hands of the blood-avenger whenever the latter should chance to meet

<sup>141</sup> As has been said above, the *mišpaṭ* probably continued with the provision that for the third class of slaying ransom-money could be paid, and the manslayer thus released from his internment at the sanctuary at which he had sought refuge. The fact that Num. 35.23 breaks off very abruptly and makes no mention of this ransom-money procedure was due undoubtedly to the fact that the Priestly practice, animated by the urgent expiation motive, specifically forbade the acceptance of ransom-money (Num. 35.31), and therefore the P editors purposely omitted that portion of the original *mišpaṭ* which dealt with this theme. The very abruptness of the ending of the material which these P editors borrowed from the original C *mišpaṭ* suggests that originally the *mišpaṭ* contained something more; and this could have been only the provision for the acceptance of ransom-money in the third case of slaying.



him, in the manner typical of the earlier and more primitive blood-revenge.<sup>142</sup> It provided, on the other hand, that in the third case of slaying, viz. through sheer accident, and only in this case, the manslayer should enjoy the right of asylum at a sanctuary, impliedly until such time as his relatives could reach a satisfactory agreement with the relatives of the slain man, and pay the ransom-money agreed upon. This last procedure thus became mandatory in the case of killing by accident, and the possibility of blood-revenge was thereby excluded.<sup>143</sup> This certainly evidences far-reaching social progress.

The procedure which this *mišpaṭ*, thus interpreted, outlines is perfectly clear and its reasonableness and its practicability for achieving its underlying purpose are readily apparent. And, as we

<sup>142</sup> Perhaps, although it is nowhere stated nor even clearly implied in the *mišpaṭim* of the Northern codex which C has preserved, the law may have gone still further and made the slaying of the murderer by the blood-avenger sure, and the execution of justice thereby certain, by forbidding the relatives of the murderer to assist him against the blood-avenger, while the latter no doubt enjoyed the cooperation of his entire family and clan. If so, this would have represented a distinct advance in the direction of social justice over the older practice of blood-revenge with its positive tendency towards the establishment of a blood-feud, not infrequently long protracted, between the two clans.

<sup>143</sup> Unless, of course, the blood-avenger should overtake the murderer before he attained to the place of asylum (just this is the case contemplated in Deut. 19.6, perhaps with this older legislation and the conditions which it fostered directly in mind), or else on some other occasion when the latter unguardedly forsook the place of asylum before ransom-money had been agreed upon and paid. This last is the provision dealt with in Num. 35.26-27. Actually these two verses give the impression of an interpolation, for v. 28 seems to link on directly to v. 25. And, on the other hand, the language of vv. 25-26 in the main, except where specific mention of the Priestly cities of refuge is made, is strongly reminiscent of the C *mišpaṭ* rather than of P. It may very well be therefore that these verses continue the fragments of another and the final subordinate condition of the original C *mišpaṭ*, dealing with the case of the manslayer leaving the place of asylum too soon and being slain by the blood-avenger, and providing that in such case no blood-guilt should attach to the latter. This final condition would have read very simply, in the words of vv. 26-27, וְאִם יֵצֵא הָרֹצֵחַ מִן הַמָּקוֹם אֲשֶׁר יָנוֹס שָׁמָּה וּמָצָא אֹתוֹ גֹּאֵל, וְהָיָה עָלָיו דָּם. This seems very probable indeed. (With the expression וְהָיָה עָלָיו דָּם of Num. 35.27, cf. אִין לוֹ דָּמִים of Ex. 22.1 and וְהָיָה עָלָיו דָּם of Deut. 19.10 and also Ex. 22.2a; Ezek. 33.4-6.)

have seen,<sup>144</sup> it is in complete accord with the provisions for blood-revenge in the remaining *mišpaṭim* of C. We may therefore regard our conclusion as soundly established that Num. 35.16–23 (in the main) + in all probability 26–27 (in the main) constitute the continuation of the *mišpaṭ* which stood originally in Ex. 21.12ff.<sup>145</sup> Furthermore, it is self-apparent that the larger part

<sup>144</sup> Above, p. 80.

<sup>145</sup> The course of evolution of the institution of blood-revenge, at least in its legal aspects, from C through D to P thus becomes perfectly clear. In the C legislation the old, primitive form of the institution is still readily apparent, although restricted to a marked degree by the right of asylum at the local shrines, extended, however, only to the manslayer who has killed through sheerest accident. Murderers of the two classes, intentional and premeditative and intentional but unpremeditative are denied the right of asylum, and, if they have sought refuge at a sanctuary, are expelled from there, to be killed by the blood-avenger, supported presumably by his family and clan, whenever he should chance to meet the murderer. Presumably too, as we have suggested, the family or clan of the murderer are forbidden by law to support their guilty relative. The practice of accepting ransom-money in place of the life of the murderer, long established, is now limited by the state to only the third case of slaying, viz. through sheer accident. Obviously the principle of blood-revenge is still dominant, but the entire institution has come under rigid state supervision and regulation to the ends, first, that blood-feuds between families or clans might not be allowed to go too far, and, second, that the basic and restraining principle of social justice might not be circumvented through the intentional murderer saving his life through the payment of ransom-money to the obvious detriment of society. Just how and by what authorities the distinction between the three classes of slaying was drawn and the right of asylum at a local shrine was determined is not indicated. However, it was hardly by the priests of the sanctuary; more probably it was by the professional judges, who must have been coming strongly to the fore during the reign of Ahab, and the development of whose office and powers the codification of the *mišpaṭim* under Ahab must have fostered greatly (cf. "The Book of the Covenant," II, 214–232). Certainly it was not by the פלילים of Ex. 21.22, for these could have been no more than the umpires who fixed the amount of ransom-money (*ibid.*, 67, note 70).

The Deuteronomic form of the institution of blood-revenge represents on the whole but a comparatively slight advance over the system of the older legislation. The underlying spirit and the general practice are much the same. In conformity to the basic Deuteronomic program of the destruction of all local shrines and the centralization of worship in the Temple at Jerusalem, three cities supersede the local shrines as places of asylum. The original Deuteronomic program provided for only these three cities. The novelty of

of this *mišpaṭ* was borrowed from its original setting in C and transposed to its present place in Num. 35.16-27, with internal

this institution is evidenced by the fact that they are called only by the general term, ערים, "cities," and a technical term, corresponding to the specifically Priestly ערי מקלט, has not yet evolved. This suggests in turn that the term מקום in Ex. 21.13, as we have already suggested (above, note 126), was employed here in the specific sense of "sanctuary"; this is in fact indicated by the consideration that such a מקום was equipped with an altar (cf. v. 14). Manifestly therefore the three cities of the original D legislation represent the purposed substitute for the local shrines of the older C legislation. The three additional cities east of the Jordan (Deut. 4.41-43; 19.8-9) are a late, post-exilic Deuteronomic provision, altogether unreal, theoretical and theological in character. The general principle is still in effect, distinguishing between intentional and unintentional, accidental slaying, but the distinction is not drawn as sharply as in the older C *mišpaṭ*. In particular no distinction is made any longer between intentional, premeditative murder and intentional but unpremeditative murder. Obviously the Deuteronomic writers were interested less in the legal than in the practical aspects of their problem, and were also more theologically than legally minded. Moreover, the distinction which they drew, in Deut. 19.4, between intentional and accidental killing was so loose and vague that it required later, supplementary illustration (v. 5) to make clear exactly what they meant by accidental killing. From this it becomes clear that their basic purpose too was to restrict the right of asylum at one of their three cities only to cases of killing through the sheerest and most unforeseen accident. In their system the elders of the city of asylum act in place of the priests of the local shrine, as the practice must unquestionably have been under the C system, as the hosts and protectors of the manslayer during his sojourn with them. But it is now the elders of the manslayer's home town who alone pass upon his actual guilt or innocence. In the latter case, impliedly, they protect him, no doubt by taking the initiative in arranging for suitable terms of ransom-money. But in case of his guilt they themselves take him from the custody of the elders of the asylum city and hand him over to the blood-avenger to be put to death, primarily still with the purpose of escaping a devastating blood-feud; for did they fail to do this the blood-guilt would rest upon them too in conjunction with the murderer (Deut. 19.10). This last procedure represents a significant departure from and perhaps the only real advance of the D system over that of C. It no longer leaves the execution to chance or to the possibility that the blood-avenger may not be stronger than the murderer, but it makes the execution sure and immediate. It would seem from this that, while in the Deuteronomic phase of the institution the principle of blood-revenge is still dominant, and the execution of the murderer is still at the hands of the blood-avenger, at the same time the principle of systematic, rigid and assured punishment for crime under the immediate supervision of authority duly constituted by the

editorial changes, by Priestly editors in precisely the same manner, and perhaps even by the very same editors, as the two

state, is beginning to assert itself positively. None the less in connection with this consideration the Deuteronomic system practically holds out the strong possibility that the elders of the murderer's town might refuse to deliver their fellow-citizen and near kinsman over to the blood-avenger, even though they knew him to be guilty of downright murder. They might prefer, particularly if they felt conscious of their own superior strength, to take the blood-feud upon themselves collectively and confidently await the outcome. Just this procedure is not uncommon in the Near East today.

From this it would seem that even the one advance which the Deuteronomic system of blood-revenge made over the older, C system was not so absolute and significant after all, since its evasion was such a simple, easy and natural matter. For it is fairly safe to assume that if the elders of the murderer's town felt themselves measurably stronger than the blood-avenger and his supporters, they might very well have preferred to accept the blood-feud and its consequences rather than, with seeming disloyalty and baseness, measured by normal oriental standards, deliver up their kinsman to death. Only when they felt themselves relatively too weak to support their cause adequately and to protect the murderer would they deliver him over to the blood-avenger. Practically therefore, by leaving the final judgment and decision in the hands of the elders of the murderer's own town, the Deuteronomic legislation seems to have weakened the very ends of justice which it aimed to serve. It gives the impression, just as, as we have seen, do other parts of the Deuteronomic legislation, of not being backed by a strong, centralized government, or at least of not being well considered from both the legal and practical standpoints. Furthermore, its provision for only three places of asylum in the entire land, in contrast to the many local shrines and places of asylum in the older system, undoubtedly made the practical employment of the right of asylum more difficult and complex than under the system of C. Obviously from the standpoints of legal competency and practical efficiency the Deuteronomic system represents a marked retrogression from that of C, just such a retrogression as would result from a less stable and efficient central government or from the smaller legal capacity of its framers, or from a combination of these two conditions.

The Priestly Code, on the other hand, provides a system which differs from its predecessors radically in spirit and character. In addition to accepting as a practical reality (theoretical though it undoubtedly was still) the late Deuteronomic institution of the six cities of refuge (Num. 35.13-14; Josh. 20.7-9), the Priestly Code has recast the entire Deuteronomic system thoroughly. The old principle of blood-revenge, though still recognized as a positive social institution, is completely overshadowed by the new principle of the extreme defiling of the land through the killing of a human being in any manner whatever, and the consequent and imperative necessity of prompt



verses which originally followed upon Deut. 19.6 and now appear in Josh. 20.4-5, likewise a bit of Priestly legislation bearing upon

and adequate ritual expiation. Only the blood of the manslayer himself or something ritually equivalent to it, the death of the high-priest, could compensate for the blood shed and adequately expiate the defiling effect of the latter and render the land once more ritually pure and fit for Yahwe's residence in its midst. The P legislators reaffirm the old C classification of manslaying and its division into three classes by literally lifting the appropriate section of the C *mišpat* from its original setting and, despite certain disharmonies with their system, incorporating it bodily and with but slight editorial amplification into their law. With this they reaffirmed the old C principle that only the third class of manslayer was entitled to asylum, but that murderers of the first two classes must be put to death summarily. The P legislation itself does not state specifically just how or by whom the death sentence was carried out. Only the *mišpaṭim* borrowed from C provide that this shall be by the blood-avenger, whenever he chances to meet the murderer. But, as we have shown, this practice controverts the basic purpose of the P legislation and its underlying theological motive; for, on the one hand, this would necessitate more or less of delay in the execution of the murderer and even considerable chance and uncertainty therein, conditions intolerable to the Priestly system. And, on the other hand, with such a method of execution of the murderer, one significant ritualistic element of the execution of the murderer would be missing, viz. the execution in such manner that the community itself, ritually defiled by the murder, would make expiation on its own behalf for the defiling crime. In other words, we would expect here a provision for the execution of the murderer in a manner characteristic of all the other ritualistic executions for defiling crimes and sins provided for in the post-exilic Deuteronomic and Priestly legislation, viz. by stoning and at the hands of the entire community or its duly constituted representatives. Undoubtedly just this is the import of the repeated Priestly insertion, couched in the characteristic *ḥoq* form, into the original C *mišpaṭim* in Num. 35.16-21, מות יומת הרצח, as well as of the general Priestly formulation of its basic principle in Ex. 21.12, מכה איש ומת, מות יומת. We may accordingly conclude, despite the lack of any specific statement to this effect, that under the Priestly system of blood-revenge the murderer was put to death by stoning at the hands of the entire community. (So also Löhr, *op. cit.*, 211. Perhaps Num. 35.30, clearly an interpolation, and one not too early, may confirm this conclusion somewhat. For certainly it contemplates a strictly judicial examination and execution of the murderer, and not merely a determination of whether or not he comes under one of the two heads of intentional murder and should therefore be debarred from the privilege of asylum and be subject to a chance slaying by the blood-avenger. Moreover, the two passages, providing for the testimony of at least two witnesses when the death penalty is involved, which parallel the provisions of this verse, Deut. 17.6-7; 19.15, deal also, or at least the first does



the institution of blood-revenge and the cities of refuge, were transferred to their present position.

Returning now to Ex. 21.12, there can be no question that

so certainly, and the second seems to do so also by implication, with cases of official execution by the community; and it is fair to infer from these parallels that Num. 35.30 contemplates such a condition also.) From this it would follow that the P editors erred inadvertently, but in a manner which finds numerous parallels in their writings, in incorporating into their law too much of the quotation from the old C *mišpaṭ*, viz. vv. 19 and 21b, providing that the blood-avenger should kill the murderer whenever he chanced upon him, for thus, no doubt somewhat unconsciously, they introduced a basic contradiction into their legislation, which, if carried out, would have nullified their main purpose.

Moreover, in their system, and altogether in accord with their fundamental doctrine and purpose, the P legislators abrogated completely the old institution of ransom-money. Under no condition might it be accepted any longer. The intentional murderer must, with absolute certainty, be put to death, and the unintentional murderer must reside in the city of refuge of his choice until the death of the high-priest should make adequate expiation in his behalf for the blood shed by him and the land defiled thereby. This role of the high-priest is an entirely new element in the institution of blood-revenge and is of characteristically Priestly origin and character.

And finally, another significant P innovation, the judgment of the manslayer and the determination of the character of his crime, whether it falls under classes one or two or under class three of manslaying, is by the עדה. Whatever the עדה may have actually been in this particular function (cf. above, note 103), it is certain that it represents the participation in the trial of the entire community through its properly accredited representatives, and its participation because it had a positive and imperative interest and part in the case, since the defilement resulting from the slaying rested not only upon the slayer but also upon the entire community and its land, and it was important therefore that it make sure that strict and efficient justice be done in the case and proper expiation be thus assured. The transfer by the P legislators of the judicial authority in such trials from the elders of the manslayer's town of the D legislation to the community itself or its duly constituted representatives was therefore altogether natural and comprehensible. It, together with the execution of the murderer by stoning by the community, or again by its properly accredited representatives, assured the practical carrying out of the Priestly program of expiation.

All in all therefore the Priestly legislation constituted a far-reaching and on the whole well-rounded and theoretically efficient reorganization of the old institution of blood-revenge, less systematic and practical no doubt than that of C, but unquestionably sounder in its theory and better planned in its practical aspects than that of D.

it is the result of Priestly editorial revision of the original C *mišpaṭ* here.<sup>146</sup> On the one hand, the fact that a part of this original *mišpaṭ* now stands in Num. 35.16–27, in a passage of undoubtedly Priestly character and composition, and on the other hand, the particular *ḥoq* form of this law in v. 12, a form, with the exception of these laws in C which we have under discussion, distinctively characteristic of P, and which has, moreover, with the imperativeness of its death sentence and the underlying implication thereof, a direct relationship to the basic theology and practical theological system of P, all confirm this conclusion. The thought of the *ḥoq* is unmistakable. It affirms the basic principle, of which the legislation in Num. 35.9–34 is the detailed elaboration, that the manslayer must be put to death, and this, as the expression מות יומה implies, as a ritual execution calculated to work expiation for the entire community, and also for the land, defiled by the crime. It is the same principle which finds expression in the *ḥoq* repeated four times, as a Priestly editorial gloss, in the midst of the borrowed *mišpaṭim* in Num. 35.16–21, מות ימות הרצח or המכה,<sup>147</sup> and again in the Priestly *ḥoq* in Lev. 24.21b.<sup>148</sup> It is the same principle which

<sup>146</sup> This conclusion was reached also by Merz (*op. cit.*, 112, 120), following Weismann (*op. cit.*, 56).

<sup>147</sup> Notice that המכה is precisely the same expression which is used in Ex. 21.12 as well as in the strictly P passages of Num. 35, and that it is used throughout in a sense somewhat wider than its general meaning, "to strike," and signifies the causing of death in any violent manner whatever. In other words, מכה איש ומה in Ex. 21.12 does not mean simply, "he who strikes a man so that he dies," but it means more specifically, "he who kills a man by any violent means."

<sup>148</sup> For a partial analysis of Lev. 24.17–21 see "The Book of the Covenant," II, 77–81. There it is shown that the nucleus of this passage is probably the double law in v. 21, the form of each part of which approximates closely that of a *ḥoq*. The editorial introduction of the *lex talionis* here in all likelihood brought with it the anticipatory statement of these same two laws in vv. 17–18, together with the additional law in v. 19. In this little group of laws in Lev. 24.17–21 Jepsen (*Untersuchungen zum Bundesbuch [Beiträge zur Wissenschaft vom Alten und Neuen Testament]*, 85) regards v. 21b as primary and v. 17 as secondary. With LXX he inserts, and undoubtedly correctly, מות before יומה in v. 21b. He correlates, quite properly, this little body of laws with those in Ex. 21.12–17, but then, in accordance with his general hypothesis (cf. "The

finds significant expression in another Priestly passage, Gen. 9.6a, in a form which, if not a strict *hoq* itself, none the less approximates closely and is certainly based upon an original *hoq*, שפך דם האדם באדם דמו ישפך. Accordingly the Priestly authorship of Ex. 21.12 can no longer be questioned. It must have been the work of the same P editors, who lifted Num. 35.16–23 (in the main) + 26–27 (in the main) from their original position here in C and transferred them to their present position. At the same time and quite naturally these P editors recast the introductory statement of this C *mišpaṭ* to conform to their own system of punishment for murder and to their own characteristic legal form, the *hoq*. And with this, of course, the evidence becomes firmly established that the Book of the Covenant, precisely like the J legislation for the Passover in Ex. 12 and the Decalogue in Ex. 20, underwent a certain Priestly revision. This fact need not surprise in the least.

There is, of course, no direct indication whatever what the exact origin of the *hoq* in Ex. 21.12 may have been. But on the basis of its analogy with the *huqqim* which we have already considered in detail, and the connection of which with the oracle, or the pseudo-oracle, we have determined, we may infer that this particular *hoq* had in all likelihood a similar origin. On the other hand, it is impossible to dissociate this *hoq* from its systematic and practical elaboration in Num. 35.9–34; and it is impossible to conceive that the very elaborate institution there presented could have been in all its practical details the result of oracular revelation and legislation. Certainly the incorporation into this detailed presentation of this elaborate system of a section of a *mišpaṭ* lifted bodily from an older code, a passage, moreover,

Book of the Covenant," II, 20f., note), he goes on to affirm (30ff.) that all these laws are Israelite *mišpaṭim*, and have no affiliations whatever with the Old Oriental law codes. He correlates all these laws also with the list of curses in Deut. 27 and maintains that all are dependent upon an ancient Israelite collection of laws which in all likelihood had their origin in the desert period (82ff.). He holds that certainly by the time of the Judges there must have been in Israel a well-defined list of crimes for which the law provided the death penalty. It is needless to say that in its basic premises and conclusions our study of this problem has led to radically different results.

which, as it is incorporated, negates in part the very fundamental aim of the Priestly system, ought to be convincing indication that this is no true oracular procedure, but is artificial throughout. We may accordingly find in this consideration some confirmation of our conclusion that in the Priestly scheme of oracular legislation in the post-exilic period there was no true consultation of the oracle and ascertaining thereby of the divine will, as there had been undoubtedly in the pre-Deuteronomic period, but only a pseudo-consultation and a pseudo-oracle, which fitted in with the Priestly scheme of things perfectly, probably even better than a true oracle would have done, and served to impress the general public with the presumed proximity of the priests to the Deity and their high authority as exponents of the divine will.<sup>149</sup>

So much then for Ex. 21.12.

<sup>149</sup> Not improbably the ability and right of the priests to consult the oracle had a particular significance in this struggle with the Levites, i.e. the Levitical priests who had been dispossessed of their ancient priestly office in the local shrines by the Deuteronomic Reformation, but who had unquestionably regained much of this during the Exile, while the Zadokite priests were in captivity. These Levitical priests must have functioned as the priests of Israel during the Exile and in the second Temple, as the frequent references to them in Malachi, for instance, indicate. When the Zadokite priests returned in considerable numbers under Ezra and sought to regain the position and power which they had enjoyed from the Deuteronomic Reformation in 621 B.C. to their captivity in 586 B.C., a bitter struggle must have ensued, for certainly the Levitical priests, who had never gone into Exile, did not yield their regained office readily and willingly. A reflex of this struggle may be seen in the story of Korah in Num. 16. This may well have been at the time a tradition fostered by the Zadokite priests with the purpose of establishing their superior rank and authority over the Levites. Unquestionably too the seeming ability and right to consult what was represented as and popularly believed to be the ancient oracle of the Urim and Tummim gave the Zadokite or Aaronite priests a decided prestige and advantage over the Levites, of which quite naturally they would make the most. There is every indication, in the passages of the Priestly Code which we have analyzed thus far, that this ability and right to consult the oracle were restricted to the Aaronite priests alone, of whom, in this oracular function, Moses was the traditional model.

## IV

## EXODUS 21.15-17

The remaining *huggim* in the Book of the Covenant need not detain us long. They are only three, found in Ex. 21.15-17. Their form corresponds precisely to that of Ex. 21.12, the typical form of the *hoq*, with the protasis of the condition expressed in the form of a participle, and with the apodosis consisting of the regular formula, מות יומת. Unquestionably their presence in this particular place is the result of dependence upon, or perhaps better, of attraction to Ex. 21.12, with which they have most intimate relationship.<sup>150</sup> Unquestionably too they are here as the result of Priestly editorial activities.

Examination of the three *huggim* together suggests that the first and third, מכלל אביו ואמו מות יומת, מכה אביו ואמו מות יומת, really belong together, since both deal with the same problem of extremely unfilial treatment of parents. Between them the *hoq* in v. 16 seems to obtrude. It may therefore be here as the

<sup>150</sup> This is, of course, the implication of the connecting particle ו at the beginning of v. 15. For unquestionably this particle does not link the *hoq* of this verse with the verse or verses immediately preceding, but rather with the *hoq* in v. 12, with which it has the most decided affinities. This conclusion is confirmed by the fact that each of the two succeeding *huggim* is introduced, and thus linked to the *hoq* immediately preceding, by a similar connective particle. The common element in all these *huggim*, which makes possible their being thus linked up into a kind of literary unit, is the provision of the death penalty in each in exactly the same invariable formula, מות יומת. This suggests in turn that all four of these *huggim*, the one in v. 12 and those in vv. 15-17, originally constituted a literary unit, that, in other words, they were probably a part of a little codex of *huggim*, or post-exilic, priestly laws of pseudo-oracular origin, all of which provided the death penalty for crimes of a ritually defiling as well as of a social character. From this codex, which was probably not of very great extent, since even under the most rigorous and ritualistic, hierarchic regime there must necessarily have been a practical limit to sins and crimes for which the death penalty was prescribed, P editors extracted the *hoq* in v. 12 and substituted it for the original C *mišpaṭ* there. But with it, in a manner which has ample parallels in Biblical editorial processes (cf. "The Book of the Covenant," II, 185-188), they incorporated the next two or three closely related *huggim* of the codex into the Book of the Covenant.



result of secondary Priestly editorial processes,<sup>151</sup> although in all likelihood borrowed from the same original source, a presumptive Priestly *hoq* codex, listing, no doubt in fairly systematic order, the various sins and crimes of defiling character for which the death penalty was provided in the regular formula, מות יומת. However, reasonable and probable though this hypothesis seems to be, it is of no particular significance for this study and need therefore be followed out no further, at least at present.

Treating the two *huqqim* in vv. 15 and 17 as a unit, it is clear that they represent the parallel in Priestly legislation to the *mišpaṭ* in Deut. 21.18–21.<sup>151a</sup> True, these two *huqqim* are much more specific as to the character of the offense of the son than is the *mišpaṭ*, and also they represent the offense in question, for which the death penalty is prescribed, as much more grievous, and likewise as much more direct in regard to the persons offended, viz. the parents, than does the *mišpaṭ* with its very vague and actually none too impressive charge. None the less the two *huqqim* have very much in common with the *mišpaṭ*, and are clearly animated by the same spirit and underlying principle. It takes but a moment's thought to realize that the two *huqqim* imply that the charge of unfilial conduct must be made, at least in the majority of cases, by the parents themselves against their own child, for unquestionably in the majority of cases the offense described would be committed in the privacy of the family home rather than in public, and there would be few or no witnesses. This implication, however, presumes precisely the same procedure on the part of the parents against their offspring as does the *mišpaṭ* in Deut. 21.18–21.<sup>152</sup> In both cases the parents

<sup>151</sup> In LXX v. 16 of MT follows v. 17; thus the two closely related verses, 15 and 17, are brought into immediate juxtaposition. This was unquestionably their original relative position. This confirms our conclusion of the secondary character of v. 16 here.

<sup>151a</sup> See the addendum below, p. 741.

<sup>152</sup> This would be the case particularly if in the *mišpaṭ* in Deut. 21.18–21 the apodosis might be regarded as beginning at v. 19. This would then make it mandatory that the parents, once convinced of the social worthlessness of their disobedient and troublesome son, must bring the proper charges against him and have him condemned to death. However, interpreting the *mišpaṭ* as we have ("The Book of the Covenant," II, 185f.), on the basis of analogy with other *mišpaṭim*, we have concluded that the apodosis must begin with

must take the initiative in bringing the charge which, if approved by the authorities, must eventuate in the execution of their own child. It seems to be an almost inconceivable procedure.

Yet under the conditions of the early post-exilic period, with its extreme theological and ritualistic rigorism, and its basic doctrine of the sojourn of the Deity in the Temple in the midst of the land and the people, and the stern necessity of safeguarding His continued residence there, and His consequent protection and prospering of His people and land, extreme measures and the death penalty as a means of expiation for sins and crimes of even comparatively moderate degree, were the rule. It matters little whether parents, even though believing unquestioningly in the basic theological doctrine of the sojourn of Yahwe in the Temple, with all its far-reaching implications of divine blessing or curse for the entire people individually and collectively, would have actually gone so far as to bring the charges in question against their own offspring. It was unquestionably an age of extreme fanaticism as well as of hierarchic domination; and history is not without numerous instances of parents bringing charges of just such character, when driven by the frenzy of religious zeal or hierarchic compulsion. It is therefore by no means improbable that, so long as this fanatic and hierarchic spirit dominated the thought and life of Israel, there may have been occasions, and these by no means infrequent, when parents may have acted in conformity with the spirit and procedure of both this particular *mišpaṭ* and these two *ḥuqqim*. But whether parents in Israel may have actually conformed to these laws or not, it suffices to realize that, under the influence of the dominant theological principle of the age, both Deuteronomic and Priestly legislators obviously took it for granted that parents, conforming to the law, would

v. 21, and that therefore vv. 19-20 are a part of the entire condition set forth in the protasis of the *mišpaṭ*. This would imply in turn that the *mišpaṭ* construes the action of the parents as optional and not as mandatory. But even granting this, it is true nevertheless that the *mišpaṭ* deals with precisely the same problem as do the two *ḥuqqim*, and, though markedly milder in its spirit and practice, is none the less animated by the same basic principle with its ritualistic and social implications, and is therefore the product of the same age. The significance of the fact that the *mišpaṭ* seems to be less rigorous and arbitrary in its procedure will be developed later (see below, pp. 140f.).

act in just this way, and impelled by fear of Yahwe and of the danger of His withdrawal from the Temple, with the awful consequences which would necessarily result therefrom, would actually bring against their own offspring charges of crime, unquestionably true, which would eventuate in the ritual execution of the latter in expiation for the crime. It is clear from these considerations that the two *hugqim* have very much in common with the *mišpaṭ*, and that all three laws must be the product of one and the same age, an age marked by an extreme ritualism and fanaticism, and an extreme ritualism and fanaticism which were not unreasoned and unaccountable, but which sprang from a basic principle and a definite theological and social philosophy.<sup>153</sup>

Just as the two *hugqim* in Ex. 21.15 and 17 have a close parallel in a Deuteronomic *mišpaṭ*, so also has the *hoq* in v. 17 in the *mišpaṭ* in Deut. 24.7. The *hoq* says very plainly: "He who steals a man and sells him or<sup>154</sup> he (the latter) be found in his (the kidnapper's) possession, he shall surely be executed." Correspondingly the *mišpaṭ* in Deut. 24.7 says: "If a man be found stealing a fellow-Israelite and using him as a slave<sup>155</sup> or selling him, that thief shall die, and thou shalt purge the evil

<sup>153</sup> For indications of an eventual reaction against this extreme ritualism and rigorism, still within the Biblical period, cf. Num. 35.30; Deut. 17.6-7; 19.15 and "The Book of the Covenant," II, 75, and note 80.

<sup>154</sup> Unquestionably the particle in וּמָצָא must be translated "or." Comparison with the *mišpaṭ* in Deut. 24.7 makes this certain. The reading of MT, in place of a correction to או is protected by the perfect, וּמָצָא, with which the particle, a *waw* consecutive, is used; for או would necessitate an imperfect יִמָּצָא. Jepsen (*op. cit.*, 30, 82) suggests that the words וּמָצָא בִּירו are editorial. Unquestionably, were these words omitted, what remains of the verse would parallel the remaining *hugqim* of this chapter, not only in form and in the provision for the death penalty, but also in rhythm, or even in metrical form. However, on the one hand, the form of the double *hoq* in Lev. 24.21 seems to indicate that such rhythmical or metrical form is not essential to the *hoq*, but is more or less incidental to the concise wording of these laws and to the fact that all of them seem to end in the same words, מוֹת יוֹמָת. And, on the other hand, the fact that the parallel *mišpaṭ* in Deut. 24.7 deals with the two provisions, the sale of the kidnapped person or his retention by his abductor and treatment as a slave, indicates that the words וּמָצָא בִּירו are indispensable here and must therefore be original.

<sup>155</sup> For this meaning of וְהָעֶרֶךְ see "The Book of the Covenant," II, 189.

from thy midst." The provisions of the *hoq* and the *mišpat* are identical in every respect. Both laws contemplate the kidnapping of a fellow-Israelite and reducing him to the condition of a slave, either through selling him or through using him for one's own advantage. True, the *hoq* does not specify that the kidnapped person under consideration is a fellow-Israelite, as does the *mišpat*, but in the light of the social and theological background of these *huqqim*, as we have established it, there can not be the slightest question that this is the true import of both these laws. Furthermore, the expression employed by the *hoq*, וּנְמָצָא בִידּוֹ, is vaguer and less specific than the graphic וַתִּתְּעַמֶּר בוֹ of the *mišpat*, but its meaning is unquestionably the same; for, of course, the kidnapper would not merely keep his captive in his possession without employing him for some purpose; and this is slavery. The provisions for the punishment of the kidnapper are precisely the same in both laws, and manifestly animated by precisely the same motive, viz. that the death of the kidnapper by ritual execution, presumably by stoning at the hands of the community or its proper representatives, serves as expiation for the crime. It is clear therefore that the two laws agree in every essential respect, that there is not the slightest divergence between them. And the fact that both laws are animated by the same basic, expiatory purpose, is conclusive proof that they are the product of one and the same age, the early post-exilic period, the one period in Israel when this principle was dominant. The question naturally suggests itself therefore, how does it happen that the same age called forth two different formulations of the same law, one found in a Priestly writing and the other in a Deuteronomic writing? To this question we shall return later.

## V

### THE PSEUDO-*HUQQIM*

It remains for us to consider the three little laws in Ex. 22.17-19. We have designated these as pseudo-*huqqim*, rather than as true *huqqim*, for a number of reasons. In the first place we have seen that the form of the *hoq*, characterized by the use of the participle in the protasis, and by the apodosis regularly prescribing the

death penalty in the two short and significant words, מות יומת, is customary and almost invariable. Of the three little laws in Ex. 22.17–19, only the second, in v. 18, conforms to this condition. The two others depart from it radically. On this basis this second law may perhaps be regarded as a *hōq*; but this term can only with considerable looseness of terminology be applied to the two remaining laws.

In the second place, we have seen that a certain direct interrelationship seems to exist between the four *hūqqim* in Ex. 21.12–17, which accounts satisfactorily for their presence together as an insert into the older body of *mišpaṭim* in C. But these three laws in Ex. 22.17–19 are found in an altogether different and extremely suggestive place, at the very end of the entire body of *mišpaṭim*, tacked on, as it were, as an addendum to these laws. Seemingly, therefore, they can hardly come from the same source or be inserted here by the same editorial hands as the *hūqqim* in Ex. 21.12–17. For these two reasons we have chosen to call them tentatively pseudo-*hūqqim*. The name is, however, of minor significance, and even if our further investigation should compel us to classify all three of these laws also as *hūqqim*, or, on the other hand, apply to them some altogether different technical term for law, it would have no real import whatever for this study.<sup>156</sup>

Of the three laws, the meaning of the first two seems, on the surface at least, to be perfectly clear. They say: A witch, i.e. a female practitioner of incantations and illegitimate divination, thou shalt not let live, and: Every one who lies (carnally) with a domestic animal shall be ritually executed. The meaning of the third law, however: He who sacrifices to deities other than Yahwe alone shall be made חרם, is not quite so certain, even on the surface. The word יחרם we leave untranslated for the present, for a certain ambiguity seems, again on the surface, to attach to it.

<sup>156</sup> Jepsen (*op. cit.*, 87–90), classifies v. 17 as a “Sittengesetz,” because of its use of the second person singular preceded by the object and לו, while vv. 18–19 he classifies as Israelite *mišpaṭim*, and therefore as having no relation whatever to the Old Oriental law codes. Moreover, he regards v. 19b as secondary (p. 42, note 2). He holds that these laws too come from the oldest period of Israel's history.



But even the first two laws, examined more closely, are not quite as clear as seemed at first glance. In the first law we may well ask, exactly what does the term *מכשפה* connote; and why does the law use the strange and surprising expression, *לא חחיה*, instead of *מות חומת*, as we would expect? Had the latter expression been used we would, of course, have had a perfect *hoq*; why then was this simple and natural form of law not employed? And in the second law, what is the force of the word *כל* at the very beginning; for would not the thought have been just as complete, and the established *hoq* form even more closely approximated, had this word been omitted, and the law thus made to begin immediately with the customary participle?

Much light is thrown upon these three little laws, and the answers to the various questions which have thus suggested themselves are furnished by the realization that all three of these laws have their counterparts, and perhaps their very antecedents, in Lev. 20. The counterpart to the law in Ex. 22.17 is found in Lev. 20.6 and 27, that to the law in Ex. 22.18 in Lev. 20.15-16, and that to the law in Ex. 22.19 in Lev. 20.2-5. This fact is of extreme significance.

From the parallel of Ex. 22.18 in Lev. 20.15-16 we can realize at a glance exactly why the former law is introduced by the word *כל*. For the law in Lev. 20 deals with the two natural and supplementary cases, (a) that of a male having carnal relations with a domestic animal, and (b) that of a female. The two cases are there distinguished, instead of being generalized under one head, as in Ex. 22.18, because the procedure of a female in such an act is necessarily altogether different than that of a male, and in consequence the language used to describe the former act, in Lev. 20.16, is quite different than that used to describe the latter act, in v. 15.<sup>157</sup> Obviously, therefore, the law in Ex. 22.18 employs the word *כל* to cover both classes of intercourse with beasts and the human participants therein, legislated for in Lev. 20.15-16. It says practically this: Every one, male or female, who has intercourse with a domestic animal,

<sup>157</sup> So also in Lev. 18.23.

shall be put to death.<sup>158</sup> Manifestly too, therefore, since its full meaning becomes clear only when interpreted in the light of Lev. 20.15-16, it is later than and dependent upon those two verses, is, so it seems, a generalization of the detailed laws expressed there, cast in the approximate form of a *ḥoq*.<sup>159</sup>

Similarly the counterpart of the law in Ex. 22.17 is found in Lev. 20.6 and 27. The relation of these two laws in Lev. 20 to each other must first be determined. That in v. 6 says: As for the person who turns to the אֱבֹת and the יִרְעָנִים, i.e. to the divinatorial spirits, to go faithlessly after them, I shall set My face against that person and cut him off from the midst of his people. The second law, in v. 27, says: If there be in any man or woman an אֹהֵב or a יִרְעָנִי, they shall surely be put to death; with stones shall they be stoned; their blood is upon themselves.<sup>160</sup> It is clear that these two laws deal with the same problem but from the two opposite points of approach. The former attempts to

<sup>158</sup> The fact that Lev. 20.15-16 prescribes also that the domestic animal in question must likewise be put to death in consequence of the unnatural act indicates, of course, that the execution of both human being and animal was primarily for expiatory purposes. The very language of Lev. 20.15-16 implies that the responsibility for the moral offense rested with the human being and that the animal was an irresponsible and more or less passive agent in the affair. Nevertheless it too must be executed, obviously because it too, whether responsibly or not is immaterial, was a party to a defiling crime, and only through the death of all in any way concerned therein could the crime be expiated and the defilement purged. The execution of the animal here together with the guilty person is therefore by no means animated by the same motive as the execution of the animal in the older, pre-exilic *mišpaṭ* in Ex. 21.29 (see "The Book of the Covenant," II, 86-92), but parallels rather the association of the woman in the case with the man in the punishment of "cutting off" in Lev. 20.17aβ, which is, as we have seen (above, pp. 38-42), a secondary Priestly modification of the older legislation, which held only the man guilty and subject to the punishment of "bearing his own sin."

<sup>159</sup> However, with, of course, omission of all reference to the execution of the animal also. See the addendum below, pp. 741-746.

<sup>160</sup> I.e. blood-vengeance shall not attach to the executioners because of their deaths, in accordance with the strict prescriptions of Num. 35 that every human slaying must be expiated by the death of the slayer or of the high-priest as the substitute, in order that the land may not be defiled. Seemingly executions such as these constituted the exception to that rule. For בָּם דְּמִיָּהם cf. above, note 143.

solve the problem of non-Yahwistic, illegitimate divination in Israel by holding responsible the lay Israelite who has recourse thereto; the latter law instead holds responsible, not the lay Israelite, but the diviner himself or herself, the one who is supposedly possessed of one of those divinatory spirits known as **אוב** or **יִדְעָנִי**. This problem had been of primary significance in Israel since the days of Saul.<sup>161</sup> Manifestly, despite all the persistent efforts of kings, prophets, lawmakers and other devotees of Yahwe and of His uncontaminated worship, this illegitimate form of divination had persisted uninterruptedly, presumably, no doubt, just as it has been throughout the ages and among all peoples, most strongly among the masses.<sup>162</sup> In this early post-exilic period, when a systematic attempt was being made to establish the priestly authority firmly and to bolster it up by an assumed revival of the old, traditional oracle of Yahwe, the Urim and Tummim, all illegitimate, non-Yahwistic methods of divination would naturally become doubly objectionable to the priestly authorities and the problem of suppressing them doubly urgent. We can understand therefore why post-exilic, Priestly legislators should deal with this problem in three different laws.

Now the fact that the law in Lev. 20.27 differs from that in v. 6 in that it lays the responsibility upon, or at least attaches the guilt and the punishment therefor, in the crime of illegitimate divination, to the diviner rather than to the consultant, suggests that it represents a change in policy in the interests of practicality. Presumably the law implies that if, on the one hand, all official diviners in such illegitimate cults could be reached and put out of the way, recourse to these divinatory spirits would necessarily languish and ultimately cease, since the consultation of them was undoubtedly a matter of considerable technique, with which the ordinary, uninitiated layman would be totally unfamiliar and incompetent. And on the other hand, no doubt, it was felt that it was much easier to identify such an illegitimate

<sup>161</sup> I Sam. 28.3.

<sup>162</sup> Note, for example, how, in I Sam. 9.6, it is the servant and not Saul, the master, who knows that ■ **רָאָה** of high authority and with divining ability resides in Ramah.

diviner than it would be to identify the person or persons who might consult him, because of the reputation and the publicity, at least in certain circles, attaching to such a functionary. Accordingly therefore the law in v. 27 seems much better calculated, at least from the human and practical standpoint, to achieve the desired end than the law in v. 6.

This consideration of the more pronounced human and practical standpoint of the law in v. 27 than that in v. 6 is a matter of more than passing importance. Our comparison of the two laws thus far has assumed that the law in v. 6 is older than that in v. 27. This assumption is established as an indubitable fact by one further consideration. The two laws differ, not only in the persons to whom they apply, but also in the character of the punishment prescribed. V. 6 prescribes the punishment of "cutting off," i.e. eventual death at Yahwe's hand, with, in all likelihood, excommunication until the moment of death. V. 27 prescribes the customary ritual execution by human agencies, and in the manner characteristic of these ritual executions, viz. stoning. This is, of course a much more human, immediate and practical method of insuring the death of the offender than is death through "cutting off" by Yahwe, and it also provides for proper expiation for the crime, which "cutting-off" fails entirely to do. We have seen that ritual execution by stoning constituted a later development in Israel than did "cutting-off." Accordingly v. 27 must be later, and a part of a later literary stratum, than v. 6.<sup>163</sup> Unquestionably v. 6 is from H,<sup>164</sup> while

<sup>163</sup> As is in fact indicated by the anomalous position of the verse in this body of laws, following, as it does, the characteristic, hortatory summing-up and conclusion in vv. 22-24, 26.

<sup>164</sup> On the basis of our discussion thus far we may conclude with reasonable assurance that the punishment of "cutting off" in its early implications was characteristic of H, or at least of one stratum of H, just as, as we have concluded, the outright death penalty, expressed in the regular formula, מות יומת, is characteristic of P. Accordingly, on the basis of this differentiation we can with fair probability distinguish between two main legislative and literary strata in Lev. 20, an earlier H stratum and a later P stratum. We may accordingly tentatively analyze Lev. 20 into these two sources, as follows; (H) vv. 2a $\alpha$  (through למלך), 3a, 6-8, 17-24, 26, and (P) vv. 1, 2a $\beta$ b, 3b-5, 9-16, 25, 27. Furthermore, the fact that vv. 17-24 deal with the problem of forbidden

v. 27, being younger, prescribing the death penalty and manifesting all the characteristic literary earmarks, must be P.

sexual offenses and the punishments for these suggests that they treat the same general problem as Lev. 18 and provide that which is distinctly lacking there, viz. the punishments for violation of the principles there so emphatically set forth. This means in turn that this section of Lev. 20 comes from a secondary stratum of H, while Lev. 18, in the main at least, comes from the primary stratum.

Moreover, we have seen already (above, pp. 38-42) that v. 17 is itself not a unit, since it prescribes two distinct and somewhat contradictory punishments for the same offense, in one case "cutting off" applied to both the man and the woman, and in the other case "bearing one's own sin," applied only to the man. As we have seen, the latter form of punishment represents an earlier stage of theological evolution than the former. This suggests in turn that we may even have in this chapter fragments of two distinct strata of H, the older (though by no means the oldest stratum of H. This would, of course, so far as these laws are concerned, be found in Lev. 18, where only the basic principles, and not the punishments for their violation, are set forth), characterized by the punishment of "bearing one's own sin," consisting of vv. 17a $\alpha$ b, 18a $\alpha$  (through  $\text{הקרה}$ ; presumably this was followed originally by  $\text{ועניו}$ ). Unquestionably this verse is overloaded as the result of editorial amplification. Apparently there is an editorial attempt in these two verses, as well as in other parts of this legislation, to extend the guilt and the consequent punishment, thought in the older H stratum to attach only to the man, to both the man and the woman. This was in complete accord with the evolving tendency, which we have already noted, to regard an offense such as these as of ritually defiling character affecting every person in any way connected with it and demanding expiatory punishment for all participants therein.), 19-22 (v. 19 too perhaps recast from an original form, in which only the man was incriminated and punishment was provided for him alone, to its present form where both man and woman share in the crime and its punishment. For the significance of v. 21 cf. "The Book of the Covenant," 183, note 235. That the same divine punishment of childlessness is provided for the sexual union of nephew and aunt may indicate that here too the basic purpose of this union was to have children. This consideration, particularly because of its juxtaposition to the marriage relation set forth in v. 21, may suggest that the ancient institution of levirate marriage in Israel had an even wider range than is generally suspected, and that when a man died childless, leaving a widow but no living brother to take her, then the duty of levirate marriage devolved upon the oldest living son of the deceased brother of the husband. Or, if not this, then at least, since this is manifestly, post-exilic legislation, it may well be that, just as in the Book of Ruth, the widow, as a part of the estate of her deceased husband, would have passed by right of inheritance, to the next of kin, in this case the nephew of her deceased husband; and if she was young



Now it is clear that Ex. 22.17 prescribes exactly the same procedure as does Lev. 20.27. Moreover, it is a generalization of the law in v. 27, just as, as we have seen, Ex. 22.18 was a generalization of the law in Lev. 20.15-16. Just as, in relation to the specific character of the latter law, Ex. 22.18 generalizes both male and female offender under one common head, so also Ex. 22.17 generalizes the male and female diviner of Lev.

and sufficiently attractive, as, for example, in the case of Ruth, the nephew might well have been inclined to accept her as a wife. Perhaps it is merely this relationship which this law seeks to restrict. That in both this verse and the next the law does not provide the penalty of "bearing one's own sin," or that of "cutting off," or even the death penalty, as in all the other cases of forbidden sexual relations dealt with in this chapter, but merely contents itself with declaring that these two types of marriage will be childless, that, in other words, what seems to have been their basic purpose will surely be frustrated, implies that while such marriages had come to be regarded as displeasing to Yahwe and contrary to the highest moral standards of the day, none the less they were not regarded as heinous and defiling offenses, for which ritual expiation was indispensable), and possibly also vv. 23, 24 and 26a.

Furthermore, the fact that vv. 9-16, in their present form unquestionably P, deal likewise with sexual offenses, just as do vv. 17-22, but provide the death penalty for the act, suggests that they represent a P editorial revision of an older H body of laws, which stood here originally and which provided for the offenses in question the punishment of "bearing one's own sin" or, though somewhat less likely, that of "cutting off." For this original punishment, whichever it may have been, the P editors substituted their regular punishment of ritual execution, couched in the main in the customary מות יומם form and coupled with the significant amplifying statement דמיהם בם or דמיו בו. V. 27 would presumably belong to this same P editorial revision. Accordingly therefore, while we must assign vv. 9-16 in their present form, as well as vv. 25 and 27 to P, we may assume that vv. 9-16 represent a RP reformulation of a body of laws of H origin. Vv. 9-23 in their original form would then have constituted a unit of H legislation (even though the result of RH fusing or reworking of two originally separate strata of H), of which vv. 23-24, 26 were the summary and hortatory conclusion, just as vv. 7-8 are the summary and hortatory conclusion of the H nucleus in vv. 2-6. Within this last group of verses vv. 2aβb, 3b-4 would be RP. V. 3a may perhaps be the original H continuation of v. 2aα, and v. 5 may be H2 or H3; for it is significant that, just as we have noted in vv. 17-18, v. 3a seems to hold responsible and accordingly to prescribe punishment only for the guilty man himself, while v. 5 obviously attempts to extend the guilt, and with it the punishment also, to all persons in any way associated with the man, his family and those who participated with him, even to a minor degree, in the forbidden act.

20.27 under the one inclusive term *מכשפה*.<sup>165</sup> However, in contrast to Ex. 22.18 which employs the masculine for its term of generalization, quite naturally and presumably because men might be expected to commit the offense in question more readily and consequently more frequently than women, Ex. 22.17 generalizes the male and female illegitimate diviners under the feminine term, presumably because women were supposedly given to these practices more extensively than males.<sup>166</sup> Manifestly therefore Ex. 22.17 is dependent upon and therefore later even than Lev. 20.27.

It is clear from this that the *לֹא תחיה* of Ex. 22.17, "thou shalt not let remain alive," merely restates the principle and practice prescribed in Lev. 20.27, viz. that the illegitimate diviner must be put to death.<sup>167</sup> The second person singular here is, of course,

<sup>165</sup> It is significant that, outside of this passage, the stem *כשף* occurs only in Ex. 7.11 (P); Deut. 18.10 (D2); II Ki. 9.22; Is. 47.9, 12; Jer. 27.9; Mic. 5.11; Nah. 3.4; Mal. 3.5. All these passages, without exception, are either exilic or post-exilic (for the late date of Mic. 5.11, cf. Marti's *Commentary* and Smith, in *International Critical Commentary* to Micah, pp. 110f.). It is, moreover, not without significance that in Ezek. 13.17–23, where we might with good reason have expected the word to be used, since seemingly the prophet is there somewhat embarrassed for want of an appropriate word to fittingly describe the reprehensible acts in question, this stem is conspicuous by its absence. Apparently the word was just becoming current in Hebrew at about the time of the Exile, and manifestly was the result of borrowing from Akkadian. This would be further and cogent proof of the comparatively late date of Ex. 22.17.

<sup>166</sup> Cf. also the so-called witch of Endor in I Sam. 28 and also Ezek. 13.17–23. In Palestine still today "women in general are believed to be much more dangerous than men. Thus every woman with blue eyes or teeth set apart is thought to possess an evil, injurious eye. Old women are, as a rule, also dangerous." (Canaan, "Unwritten Laws Affecting the Arab Women of Palestine," *JPOS*, XI [1931], 196).

<sup>167</sup> Jepsen (*op. cit.*, 41), although admitting that the accurate translation of *לֹא תחיה* is "do not let live," none the less prefers to render the expression, "sollst du keinen Unterhalt gewähren," i.e. "do not support her in her profession by providing her the means of subsistence." This is, however, far-fetched indeed. From our exposition of the fundamental purpose of all this legislation it is beyond all question that the death penalty is provided here in some form or other.

See addendum below, p. 746.

addressed to all Israel as a body. This wording of the law emphasizes the basically human aspect of the execution, as does Lev. 20.27b also, practically, as it were, to abrogate the procedure prescribed in Lev. 20.6, that the death penalty is to be inflicted by Yahwe in His own time and way, and to affirm most emphatically that the execution of the guilty person must be sure and immediate, therefore by human hands. However, whether this hypothetical explanation of the use of the unexpected and surprising *לֹא חֲחִידָה* in Ex. 22.17, in place of *מוֹת חֲוָמָה*, which we would normally expect, be correct or not, unquestionably this verse must be coordinated with Lev. 20.27 and is dependent upon and later than it. Ex. 22.17, precisely like v. 18 must be here in its present place as the result of late Priestly revision of the Book of the Covenant.

The same conclusion holds true with regard to v. 19. As we have said, this verse too has its counterpart and antecedent in Lev. 20.2a $\alpha$ , 3a: As for the man of the Children of Israel or the stranger who sojourns in Israel who gives of his offspring to Molech, I will set My face against that man and will cut him off from the midst of his people. As the punishment prescribed in this verse, viz. "cutting off," indicates, and as we have already suggested, this verse is a part of the original H stratum of this chapter. We need not assume that this is mere paper legislation. There is no reason whatever to doubt that it deals directly with a pressing problem of its own time. Unquestionably, despite repeated prophetic denunciation and the Deuteronomic Reformation, Molech worship, whatever in all its details it may actually have been, was not completely and permanently uprooted from the folk-practice of Israel. In the period following 608 B.C., and even more following the destruction of Jerusalem and the Temple in 586 B.C., when the reaction against the Deuteronomic Reformation, portrayed so graphically in Jer. 44, reached its height, this Molech worship, no doubt suppressed under the Deuteronomic Reformation, must have been revived along with the various other non-Yahwistic cults.<sup>168</sup> It must have continued during the Babylonian Exile to flourish among the people who

<sup>168</sup> Cf. Is. 57.5; Jer. 7.31ff.; 19.4ff.; 32.35; Ezek. 23.36ff.

were not carried away into captivity, but remained sojourning in Palestine. Quite naturally, therefore, the Holiness Code, which was in all likelihood, at least in its revised state, the product of the period near the end of the Exile, or even of the early post-exilic period, and which seems to contemplate a religious reformation similar to and patterned after, though not quite as drastic as<sup>169</sup> the Deuteronomic Reformation, dealt with the problem of Molech worship, persisting into its day, and devised a law calculated to effectually suppress this distinctly non-Yahwistic and therefore basically objectionable cult. This is the law with which we are dealing in Lev. 20.2a $\alpha$ , 3a.

Inasmuch as the punishment prescribed in the law is the "cutting off" by Yahwe of the Molech-worshiper, rather than merely that he must "bear his own sin," we may assume, though, of course, still rather tentatively, that this law comes not from the first, but rather from the second stratum of H. It is clear also, as we have already seen, that there was apparently a secondary expansion of this law, still, however, seemingly by H editorial hands, in v. 5, repeating the punishment prescribed in v. 3a, of "cutting off" by Yahwe, but extending its range to include not only the Molech-worshiper himself, but also his entire family and also all those who were in any way associated with him in this cult,<sup>170</sup> precisely the same procedure, and with the very same motivation, as, as we have seen, animated the transition from primary to secondary H legislation in vv. 17-19.

Evidently, however, despite this latter legislation, undoubtedly regarded in its day as quite drastic, commensurate with the

<sup>169</sup> Witness, for example, the legitimization of the entire ceremony of the first sheaf (Lev. 23.10f.), about which Deut. 16.9ff. is completely silent, and which ceremony by its silence impliedly it seeks to abrogate, no doubt because, on the one hand, being obviously a ceremony performed at home, in one's own field, it did not lend itself readily to the Deuteronomic program of celebration of the festivals at the central sanctuary, and, on the other hand, because in its origins it was unquestionably associated with some non-Yahwistic cult. Witness also the H revival of the Sabbatical year as an agricultural institution (Lev. 25.2-7, 20-22; cf. Ex. 23.10), a form of celebration which Deut. 15 ignores completely.

<sup>170</sup> Note also that v. 5 employs the expression שִׁים פָּנִים where v. 3a uses נָתַן פָּנִים.

degree of the sin in question, Molech-worship persisted. Accordingly the later P legislators dealt with the same problem and in their own characteristic manner. Realizing the inadequacy of the punishment of "cutting-off," particularly when measured by their own theological principles and standards, they prescribed a new and much more rigorous punishment, viz. their regular and characteristic expiatory death, stated in their customary formula, מות יומת, and amplified by the specific statement describing the manner of this death, viz. that the עם הארץ, here unquestionably "the people at large," shall stone the Molech-worshiper with stones; all this in v. 2a $\beta$ b. Then, in v. 3b, these final Priestly editors go on to motivate the extremely drastic turn which they had given to the original law, by explaining that such worship defiles Yahwe's sanctuary and profanes His holy name. The prevention of the defiling of the sanctuary is, of course, the regular Priestly motif.<sup>171</sup> Then, just as if the Molech-cult were quite popular and wide-spread in their day, with the resultant implication that the people at large might be exceedingly loathe to inflict the prescribed punishment upon the particular offender, the P editors went on, in v. 4, to threaten the people at large with Yahwe's wrath and punishment, should they refuse or fail to carry out the prescribed expiatory death. This they did quite cleverly and with far greater skill than they usually manifested in such matters, by linking their editorial insertion up with the provision of the secondary H legislation in v. 5, in which, as we have seen, the punishment of "cutting off," in the original H legislation applied only to the actual Molech-worshiper himself, was extended to include likewise his entire family and all associated with him in the forbidden cult.<sup>172</sup> In this way the present text of Lev. 20.2-5 must have come into being.

<sup>171</sup> The profanation of Yahwe's name may be a later P motif, and therefore secondary here. It is not at all essential to the thought, and if omitted here would not be missed.

<sup>172</sup> It is almost self-apparent that vv. 4 and 5 have an altogether different point of view and must have come from different writers, so that their linking up in their present form must be the result of editing. Certainly the עם הארץ of v. 4 can not be equated with, but must be a far larger and more inclusive group than the משפחתו and כל הזנים אחריו of v. 5. Unquestionably the reference



It takes but a moment's thought to realize that Ex. 20.19 deals with exactly the same problem as Lev. 20.2-5, and provides practically the same punishment,<sup>173</sup> and that, more specifically,

to the עַם הָאָרֶץ in v. 4 and to the punishment which they were required to inflict is the work of the same legislators as v. 2aβb, viz. P editors. But, as we have learned, this expiatory death penalty, inflicted by stoning at the hands of the people at large, reflects an altogether different theological and practical point of view than the punishment of "cutting off," prescribed in v. 5. For these cogent reasons, and despite the seeming smoothness of the editorial join, vv. 4 and 5 can not possibly be the work of the same writers or legislators. V. 4, just as also vv. 2aβb and 3b, must be P, while v. 5 represents a RP reworking of an original H passage.

<sup>173</sup> Jepsen (*op. cit.*, 42) explains the use of יָחַרם here in place of the customary and expected מוֹת יוֹמָה by the assumption that since this is specifically a sin against the Deity and not against society, the employment of the bann is particularly appropriate. This assumption is, however, altogether groundless. Our investigation thus far has established beyond all question that all these offenses for which the death penalty is provided in the post-exilic legislation are regarded as being against the Deity quite as much as, if not even more than against society, and that it is because of their defiling effect with relation to the Deity that the expiatory death penalty came to be provided for them. It is difficult indeed to account for the use of the unexpected term יָחַרם here. The stem is of great antiquity in the Hebrew language and its antecedents, as the proper names, Ḥermon and Ḥormah indicate. None the less it is certain that it is used with far the greatest frequency in D and P and other post-exilic writings. Unquestionably יָחַרם here implies the death penalty, but whether by stoning or by some other method of execution is not at all clear. Num. 21.2-3 and Deut. 20.16ff. employ the term to describe the destruction of peoples, together with their cities, captured in warfare, and particularly in warfare in the name and for the cause of Yahwe. This would imply that הָחָרִים is a generic term for "to destroy; to put to death," or else, if it has any specific meaning at all, it is "to kill and destroy by burning;" for, as the excavations attest amply, this was the natural and regular manner of destruction of captured cities. This interpretation of יָחַרם here would seem to be borne out by Josh. 7.11-26, where the booty of Jericho and also Achan, who had himself become חָרָם because of his having touched the booty (vv. 12f.), are burned (vv. 15, 25). The reference to the stoning of Achan and his family (note here the significant extension of the defiling guilt to include all those intimately associated with the actual criminal), in addition to their being burned, is probably secondary and late, a concession to the fact that this was obviously an expiatory execution, and that such executions were regularly, as we have seen, by stoning at the hands of the people, in order that the people might thus have the opportunity to pass on the defilement resting upon them to the actual criminal, executed as a scapegoat for them. It is therefore not at

it is in complete accord, not with the original, nor even with the secondary H legislation for this offense, but only with the final P legislation. Moreover, it is clear that, precisely like the two verses immediately preceding it, it too generalizes the legislation of Lev. 20.2-5, in that, instead of specifically mentioning the Molech-cult, it deals with the worship of any deity other than Yahwe,<sup>174</sup> and in that, likewise, it prescribes the death penalty in almost the most general term possible, but a term which none the less carries with it the explicit implication of a ritual and expiatory execution. There can accordingly be not the slightest doubt that Ex. 22.19, precisely like the two verses immediately preceding it, is from P or RP. Moreover, there is an unquestionable literary unity in these three verses, since all three of them are manifestly later than and dependent upon legislation in Lev. 20, and are all generalizations, in short, concise statements, of laws expressed there in broader and more detailed manner. Beyond all doubt, they are the product of comparatively late Priestly editorial handiwork and revision and expansion of the Book of the Covenant. And finally, since they are obviously laws of only secondary, editorial character, with no implication whatever of a direct origin in oracular revelation, and since,

all improbable that Ex. 22.19, by using יחרם in place of the customary מות יומת, actually contemplated execution by burning, perhaps to be followed by the stoning of the remains of the culprit by the people at large, precisely as in the story of Achan. This hypothesis is strengthened considerably by the fact that, as we have seen by establishing the close relationship of this verse with Lev. 20.2-5, the particular anti-Yahwe cult in question is that of Molech, in which the burning of human sacrifices seems to have been the dominant ceremony. Consequently the execution by burning of the participants in this cult may well have seemed the most appropriate form of expiatory execution of them. However, the entire matter is manifestly too obscure and uncertain to justify our translating יחרם here definitively other than in the most general way, "he shall be put to death." But that the death penalty is implied here, and not merely excommunication, as Jepsen suggests, is beyond question.

<sup>174</sup> Sam. and LXX both insert אחרים after אלהים. This was probably original. The loss of the word in MT can be accounted for readily because of its close resemblance to אלהים, which precedes immediately. Sam. likewise omits v. 19b. However, while it must be admitted that this half-verse is not absolutely indispensable, the sense is certainly clearer with it present. And the fact that all the other versions have it, argues for its originality.

moreover, all of them deviate in one or more essential characteristics from the customary form of the *hoq*, we may regard our first assumption as correct, that these three little laws are not at all true *hugqim*, but at the best only pseudo-*hugqim*.

## VI

### SUMMARY

The results of this portion of our study of the Book of the Covenant can be readily summarized. Our interest has naturally been primarily in the two small sections of the Book which we have had to analyze in detail, Ex. 21.12-17 and 22.17-19. Our discussion and occasional detailed analysis of other Biblical passages, particularly Gen. 9.1-7; Ex. 31.12-17; Lev. 20; 24.10-23; Num. 9.6-13; 15.27-36; 27.1-11; 35.9-34; 36.1-12, have been only incidental, designed to establish as firmly as possible certain foundation facts and principles essential and even basic to our specific problem. Nevertheless this widely ramified survey of various sections of the Priestly Code has brought to light and established fairly conclusively a number of matters of interest and even of rather far-reaching import. These may be summarized as briefly as possible and without unnecessary repetition of details.

(1) It has developed, and we believe quite clearly and conclusively, that the three concepts and forms of extreme punishment for ritual and moral offenses, implied in the terms, "bearing one's own sin," "cutting off from the midst of the people," and *מוח יומת*, are by no means identical and synchronous. They connote distinct ideas and practices, resulting from a fundamental theological concept, evolving quite rapidly in the exilic and post-exilic periods. What these were need not be recapitulated here. But, as we have seen, it is possible, on the basis of this differentiation, to determine the relative dates and implications of various passages of the Priestly Code and from this to gain a clear picture of the evolution in post-exilic Israel of the institution of ritual execution motivated by expiatory considerations.

(2) The development of this basic ritualistic principle in post-exilic theology and legislation, in both D and P, has become

fully apparent. The underlying concept, as we have seen, was that Yahwe had taken up His permanent abode in the sanctuary, i.e. in the second Temple, in the midst of land, people and sanctuary, and by His presence there had rendered land, people and sanctuary sacred with an inviolable sanctity. This sanctity or holiness must be preserved in every possible way and at all costs, for otherwise Yahwe might, in principle at least, be compelled to withdraw from Israel. In a defiled sanctuary and land and in the midst of a defiled people He could not consent to dwell; and for post-exilic Israel, a little, weak religious community with predominantly exclusive, particularistic tendencies, dwelling in the midst of strong, hostile and aggressive nations and peoples, to be left without its God and His protection and favor, was tantamount to destruction. The continued residence of Yahwe in His chosen place in their midst was their sole hope of salvation and material, cultural and spiritual progress. Therefore no safeguard of His continued presence among them, no protection against defilement, or, if committed, no expiation of defilement and of ritual sin, even the most extreme, such as ritual execution, was too great. Such ritual execution not only visited severe punishment upon the actual offender, but likewise made efficient expiation on behalf of the people and the land, defiled by the act in question.

(3) As a partial result of this new and fundamental concept that Yahwe had taken up His permanent residence in the Temple, in the midst of, and therefore very close to, the people, prophecy declined gradually, while another form of divination and divine revelation, consultation or pseudo-consultation of the oracle, came to the fore. This method of divination and revelation, essentially priestly in character, and therefore, quite naturally fostered by the priestly party dominant in the post-exilic period, particularly from the time of Ezra and Nehemiah on, was of ancient origin and bound up with the old, historical oracle of the Urim and Tummim of the days of Israel's desert life and of its early settlement in Canaan. Actually, however, the priests of the post-exilic period did not possess the Urim and Tummim nor did they have any true knowledge of what these really were. Instead they linked up their vague, historical tradition about them with

the altogether un-Israelite, Akkadian "tablets of destiny," of which undoubtedly they had learned during their sojourn in Babylonia during the Exile. Theirs was therefore no true, but only a pseudo-oracle. None the less it sufficed fully for their purposes and enabled them to gradually evolve a body of law of considerable extent, which provided adequately for the many cases and problems submitted to them for jurisdiction, problems arising for the most part out of the newly evolving conditions and concepts of life, and particularly out of the newly evolving doctrine of Yahwe's residence in Israel's midst and the consequent necessity of absolute ritual purity for land, people and sanctuary, and likewise out of the newly evolving principle of individualism.

(4) These laws, thus evolved, took two main forms. If the question at issue was of a predominantly civil character they took regularly the form of a *mišpaṭ*, and, of course, the form which, we have learned, is characteristic of the Priestly Code, beginning with **איש כי** or a fitting equivalent.<sup>175</sup> But if the question at issue were of such a character that a specific penalty had to be provided, and particularly the penalty of ritual, expiatory execution, then the law seems to have taken quite regularly the form which we have designated as a *ḥoq*, with the protasis of the condition expressed by a participle, the death sentence prescribed in the almost unvarying and technical or semi-technical formula, **מוֹת יוֹמָה**, implying almost invariably death by stoning at the

<sup>175</sup> With this characteristic introduction of the P *mišpaṭim* cf. the equally characteristic and practically equivalent *šumma awēlum* introducing the *mišpaṭim* of CH. It is by no means impossible or improbable that the P legislators may have become familiar with CH during the Babylonian Exile and may more or less consciously have patterned their own characteristic *mišpaṭ* form after the older Babylonian. In fact we may go a step farther and assert that the peculiar form **איש כי** or **איש כי**, with the noun preceding the introductory conditional particle, is unquestionably exactly the same construction as that which we find so often in Biblical Aramaic, where the noun occurs regularly in just this position as a *casus pendens*, a kind of a nominative absolute, and the subject proper is then taken up or implied in the particular form of the verb. Obviously this characteristic P *mišpaṭ* introduction betrays both Aramaic and Akkadian influence, further evidence of an exilic or a post-exilic date. Recognizing the influence of the Aramaic idiom, thus betraying Aramaic mediation, it becomes doubly clear that the **איש כי** of P parallels exactly the *šumma awēlum* of CH.



hands of the people at large, and the whole law couched in characteristically brief and concise form. Laws of this peculiar form are found only in the Priestly Code.<sup>176</sup> Something which approximates this rather closely is found likewise in the Book of Proverbs.<sup>177</sup> We have tentatively designated laws such as these as *huggim*. Whether this designation is actually correct, it is difficult to determine with any certainty. Both the term *hōq* and its feminine parallel, *huggah* (obviously evolved from the stem *קק* in much the same way as the Arabic *حَقَّقَ*, etymologically closely related, is in turn derived from the same stem) occur, though not at all frequently, in pre-exilic Biblical literature. In post-exilic literature both terms are used with far greater frequency, the masculine, *hōq* and *huggim*, in both Deuteronomic and Priestly writings, the feminine *huggah*, in the singular almost exclusively, and in the plural, *huggot*, with great preponderance, only in the Priestly Code. In this post-exilic literature the two words are used with such a wide range of meanings that it is difficult to determine just when, if ever, either term is used with a specific, technical connotation. For this reason we can not decide at present whether our tentative designation of these

<sup>176</sup> The one and only exception to this absolute statement is found in Gen. 26.11. There the command of the Philistine king to his servants is couched in a form which is identical with that of the *hōq* in every essential respect except perhaps one. The law is direct, concise and individualistic in character. The protasis is expressed by a participle and the penalty is expressed in the regular formula, *מִתּוּ יוֹמָה*. The only respect in which this law deviates from the regular *hōq* form is that the participle of the protasis has the article, a condition never found in the *huggim* which we have analyzed. The passage is undoubtedly J2, or, as Gunkel calls it, Jr. This does not at all preclude the possibility that it may be post-exilic, although hardly very late in the post-exilic period. It is not at all unlikely that the resemblance of this command to the *hōq* form is more or less accidental, for the form is so natural that it is indeed surprising that it did not come into general use already in the pre-exilic period. Or, on the other hand, the fact that the J authors of this chapter employed this particular form of law or command may be due to the fact that it was beginning to evolve in early post-exilic writing and gradually developed, on the one hand, into the peculiar Priestly form of law, and, on the other hand, into the peculiar proverb form to which we just now refer.

<sup>177</sup> Cf. Caspari, "Heimat und soziale Wirkung des Alttestamentlichen Bundesbuchs", *ZDMG*, 8 (new series) (1929), 101.

peculiar Priestly laws, seemingly of pseudo-oracular origin, as *huqqim* is absolutely correct or not. All that we may affirm at present is that no evidence whatever, indicating that this designation is incorrect, has come to light, nor has any other specific term for law, which may be applied to this peculiar form of post-exilic, Priestly legislation, as yet suggested itself. We may therefore, if only for the sake of convenience, continue to apply this term, or perhaps even better, its feminine equivalent, *huqqah*, to these laws.

(5) We have learned too that, as was but natural, in the course of time a reaction against the extreme ritualism of the Priestly Code, and, in particular, against the practice of ritual, expiatory execution, set in, a reaction which expressed itself already in a few laws included in the Pentateuch, which tended to make the process of ritual, expiatory execution more difficult by requiring the testimony of at least two witnesses in order to establish guilt and to justify execution, and, still further, by requiring that in such executions, by stoning of course, the witnesses must cast the first stones, in others words, must take upon themselves in concrete form, the responsibility for the actual execution and death of the convicted sinner. Naturally the effect of this, undoubtedly purposed by its legislators, was to make the witnesses hesitate, or even become extremely reluctant, to give testimony, even though it were true beyond all question, which would eventuate in their becoming executioners themselves,<sup>178</sup> and thereby the practice of ritual, expiatory execution was necessarily greatly impeded. In all likelihood the tacit assumption that the older, Priestly laws, which prescribed ritual, expiatory execution, came actually from Moses and were the result of direct, divine revelation through him, forbade their repeal. But, on the other hand, a growing humanitarianism and a natural reaction against the extremes of ritualism commanded a modification of at least the application of these laws. This was achieved by the formulation of these new and qualifying laws, which imposed practical obstacles in the way of enforcing

<sup>178</sup> For another, no doubt secondary, but still important consideration which motivated this law, cf. "The Book of the Covenant," II, note 184, p. 146; cf. also p. 75, note 80, and 131, note 160.

the original laws. This process, begun, as we have seen, already in the Biblical period, was developed greatly in subsequent, obviously related, post-Biblical legislation, recorded in the Mishna.

(6) We have suggested, furthermore, that this reaction against the extreme ritualism of the Priestly Code, and also, for that matter, against the corresponding legislation of the Deuteronomic Code, which expressed themselves particularly in the laws prescribing ritual, expiatory execution, evolved most positively and aggressively in lay circles in late post-exilic Judaism. And in this connection we have suggested<sup>179</sup> that other passages of the Pentateuch, notably the creation story in Gen. 1.1-2.4 in its secondary, reedited form, likewise reflect this growing lay influence and tendency in late post-exilic Jewish legislation and theology.

(7) Moreover, we have suggested that these laws of manifestly late post-exilic origin, and their number is by no means confined to the few which we have considered thus far, could not have sprung up by themselves. They must, it is almost supererogatory to assert, have emanated from some authoritative and responsible, legislative body of that late post-exilic day. We have suggested that this legislative body, still in the days of the later strata of the Priestly Code, was the עדה, a predominantly priestly organization but none the less with a distinct lay representation in its body. This עדה was presided over by the high-priest and held its sessions in the Temple, and apparently in the inner court. If not actually identical with, then certainly it was the forerunner of the Great Synod.<sup>180</sup> Certainly it was the forerunner of the later Sanhedrin, in which, however, the lay element had acquired the dominant authority, held originally, as we have seen, by the priestly group, and in which, in particular, a layman, holding the high title of נשיא, a title already designating a certain element of the lay membership of the Biblical עדה,

<sup>179</sup> "The Sources of the Creation Story—Genesis 1.1-2.4," *AJSL*, XXXVI (1920), 169-212.

<sup>180</sup> For a different opinion cf. Zeitlin, "The Origin of the Synagogue," in *Proceedings of the American Academy of Jewish Research*, 1931, 79ff.

acted as the presiding officer in place of the high-priest in the older legislative body.<sup>181</sup>

(8) We have likewise suggested that the rise and gradual expansion of the influence of this lay element in late post-exilic Judaism, in opposition to the dominant priestly group and its extreme ritualistic rigorism, with the breach between the two groups no doubt becoming steadily wider and their distinctive, fundamental principles more and more clearly defined and more and more aggressively asserted, called into being ultimately the two great parties, the Sadducees, exponents of the old, priestly tradition and protagonists of its specific legislation, viz. the Pentateuchal canon in its final, authoritative form, and the Pharisees, the representatives of the people at large and spokesmen of a distinctive, milder, lay point of view and champions of an unending, progressive legislative process, still regarded, however, as rooted in divine revelation through Mosaic mediation, the so-called oral law.

(9) We have likewise, as a by-product of this particular study, had occasion to make a detailed analysis of much of

<sup>181</sup> Just when this transition from priestly to lay dominance took place it is impossible to determine with absolute accuracy. Unquestionably the traditions preserved in the Mishna (Abot, I) have direct bearing upon this question. If the statement in the second mishna of this chapter, viz. that Simon the Just was one of the last of the Great Synod (but for a different and very plausible interpretation of this passage cf. Zeitlin, *op. cit.*, 80), and if we could identify this particular Simon with certainty (cf. *JE*, XI, 352f.), we would, of course, have a fairly close approximation to the probable date. On the other hand, if we may accept the tradition contained in the same chapter (I, 3-10) with regard to Antigonus of Socho and the *Zuggot* or pairs who followed him as the authoritative custodians of the tradition of the oral law, we might arrive at the approximate date from another angle. We know that Simon b. Shetach, a member of the third pair of *Zuggot*, was active during the reigns of Alexander Jannai and Salome Alexandra, i.e. about 75 B.C. This would suggest that Antigonus of Socho, apparently the first of the lay legal authorities, lived and was active at about the time of John Hyrcan (135-104 B.C.), in other words at just the time when the schism between the Pharisees and Sadducees became sharply defined (cf. Schürer, *Geschichte des jüdischen Volkes im Zeitalter Jesu Christi*,<sup>4</sup> II, 414-489). It is altogether likely therefore that the transition from priestly to lay dominance in the Sanhedrin and in the legislative processes took place at about this time and may have been due to a variety of causes, into which, however, we need not enter here.

the Biblical legislation, and particularly of the legislation contained in the post-exilic Pentateuchal sources, bearing upon the institutions of marriage and blood-revenge, and as a consequence thereof have acquired considerable information about the practice of these two institutions in ancient Israel, and particularly about the course of their evolution in the post-exilic, Biblical period. The details of these evolutionary processes, sufficiently developed in the body of this study, need not be repeated in this summary.

(10) So far as the laws themselves, which we have considered in detail, are concerned, we have seen that Ex. 21.12 is a typical *hoq*, of Priestly and, presumably, pseudo-oracular origin. It provides the punishment of ritual, expiatory execution for the murderer in place of the older practice of blood-revenge, carried out under state supervision by the blood-avenger. This Priestly *hoq* was substituted in its present place in the Book of the Covenant for the introductory, general statement of the *mišpaṭ* which stood here originally. This substitution necessitated certain further editorial modifications of the continuation of the original *mišpaṭ*. In the course of these editorial processes a considerable portion of the original *mišpaṭ* was transferred from its position in C to a place in a distinctively Priestly piece of legislation dealing with the same general theme, viz. the expiatory execution of the murderer, in Num. 35.16-23 (in the main) + 26-27 (in the main).

Moreover, the substitution by Priestly editors of the *hoq* in Ex. 21.12 for the introductory statement of the *mišpaṭ* which stood here originally, drew with it in its train three other *huqqim* of similar form and nature, and probably coming from the same source as, and there standing in immediate juxtaposition to the *hoq* in the present Ex. 21.12. This source was a presumptive *huqqim* codex, of post-exilic priestly origin and composition and of no very great extent. These four *huqqim* were all inserted into their present positions in Ex. 21.12 and 15-17 by post-exilic, Priestly editors, who thus modified the older Book of the Covenant in accordance with their dominant views and purposes. Whether vv. 15-17 were inserted at the same time and by the same Priestly editors as substituted Ex. 21.12 for the introductory statement of the original C *mišpaṭ*, or are here as the result of



supplementary Priestly editing, it is impossible to determine. Apparently originally vv. 15 and 17 stood here in immediate juxtaposition, as the obviously closely related character of their subject-matter suggests and as the LXX version proves conclusively. For some altogether inexplicable reason v. 16, which must originally have followed v. 17, as it still does in LXX, obtruded itself in MT between vv. 15 and 17.

Ex. 22.17–19, which on the surface bear a striking resemblance in form, content and spirit to the *ḥuqqim* of 21.12, 15–17, are, careful analysis shows, not so closely related as first thought suggests. They are pseudo- rather than true *ḥuqqim*, and were appended here, at the very end of the body of *mišpaṭim* by quite late Priestly editors.

The literary history of the Book of the Covenant up to this point is easily summed up. In addition to a narrative framework, the greater part of which has been lost, and of which only Ex. 24.4–8 + Num. 10.33b<sup>182</sup> survive, it consisted of the original nucleus of a body of *d̄barim*, of ancient, ritualistic character, setting forth what seemed to the prophetic reformers of 842 B.C., the fundamental principles of true Yahwe worship. These *d̄barim*, ten in number, are found at present embedded in Ex. 20.23–26 and 23.10–19,<sup>183</sup> with, however, considerable later editorial amplification and modification.

Into this original nucleus of *d̄barim*, and almost in the middle thereof, a body of *mišpaṭim* came in time to be inserted by editorial processes.<sup>184</sup> Just when this transpired it is difficult to determine with exactitude, but certainly it antedated the Deuteronomic Reformation and the composition of the nucleus of the Deuteronomic Code in 621 B.C. These *mišpaṭim* were of Northern origin and seem to have been borrowed verbatim from an old, Northern *mišpaṭ* codex, compiled in all likelihood in the reign and under the supervision of Ahab. The insertion of these *mišpaṭim* into C was not a single, unified, editorial work, but was rather the result of a gradual and supplementary process of

<sup>182</sup> Cf. "The Book of the Covenant," I.

<sup>183</sup> Cf. "The Oldest Document of the Hexateuch," 54–98.

<sup>184</sup> Cf. "The Book of the Covenant," II.



Priestly editing is indicated by the fact that Num. 10.33b shows unmistakable evidences of characteristic Priestly editorial amplification of harmonistic character in v. 34. No doubt this original narrative framework of C recorded a tradition too greatly at variance with the corresponding P tradition to permit its retention.

Accordingly Ex. 22.20-30; 23.1-9 alone of the generally recognized Book of the Covenant await our detailed analysis. These verses consist in the main of two distinct groups of laws, a body of laws of distinctive content and form, which we have designated as *mišwot*,<sup>185</sup> found in 22.20-26; 23.1-9, and another little group of laws, likewise of distinctive form and content, which we have designated as pseudo-*d̡barim*,<sup>186</sup> found in 22.27-30, in other words inserted midway in the body of *mišwot*. In the next section of this study, "The Book of the Covenant," IV, to appear in a later volume of this ANNUAL, it will be our task to make a minute analysis of these two remaining sections of the Book of the Covenant and determine their origin, import and relation to the other bodies of law contained in the Book.

<sup>185</sup> *Ibid.* 27.

<sup>186</sup> *Ibid.*

## PALESTINIAN CHRONOLOGICAL DATA

750-700 B.C.,

### IN THEIR RELATION TO THE EVENTS RECORDED IN THE ASSYRIAN CANON

WILLIAM JOHN CHAPMAN, New Boston, Mass.

THE present article is a continuation of that published in vol. II, 57-61 of the Hebrew Union College Annual, the chronological table forming a segment of the more extended chronology presented at the New Haven Meeting of the A. O. S. in 1925. Whatever else may here be said will be by way of comment or elucidation. For the clearer understanding of a highly complex group of interrelated problems the following topics will be adopted: (I) Method; (II) Palestinian data as presented in the chronological table; (III) Assyro-Babylonian data; (IV) the specified duration (2 Kings 18.2) of Hezekiah's reign.

#### I. METHOD

Under this topic the writer assumes (a) that with respect to happenings the "current" attitude of mind—contemporary in the narrower or psychological sense of the term—differs, or at any rate may differ, very considerably from the "retrospective" or properly historical. So long as the outcome is unknown the evaluation of concurrent "affairs" or "happenings" will be determined by hopes or fears which may or may not be realised by the event. In such circumstances even the barest statement of fact may have a considerable subjective element. And (b) he wishes to re-affirm the primacy in importance no less than the priority in order of time, at least so far as mere "happenings" are concerned, of non-literary sources,<sup>1</sup> that is to say, of business documents in the widest sense of the term. He likewise holds

<sup>1</sup> Cf. The Problem of Inconsequent Post-dating in 2 Kings 15. 13, 17 and 23 (*HUCA* vol. II, p. 57), compare J. G. Droysen, *Grundriss der Historik* 45, E. tr. (Andrews) p. 33.

(c) that "objective" discrepancies—those arising out of the complexity of human affairs (cf. Droysen, *op. cit.* 88, E. tr., p. 50f.) must be distinguished from such as are of a purely subjective character. In applying the forementioned presuppositions the end in view has been to let the various sources tell each its own story in the hope that even conflicting testimony may contribute to the understanding of the problem and its eventual solution.

## II. PALESTINIAN DATA

The outstanding difficulties of the Palestinian material are: (a) the anomalous method of dating in c. 15.13 (17)<sup>1a</sup> 27; (b) the accession of Hoshea in the "twelfth" year of Ahaz (c. 17.1), where the general agreement of the synchronisms would have led one to anticipate "in the second year;" and lastly, the circumstance that (c) according to 2 Kings 18.13 (Isa. 36.1) Hezekiah's "first year" was the thirteenth before Sennacherib's western campaign in 701 B.C.<sup>2</sup>), whereas, according to vv. 9, 10, it was the twenty-sixth ( $13 \times 2$ ) before that event. Since the campaign of 701 was an event of international importance, v. 13 would seem on a priori grounds to deserve the preference, there is also reason to believe that the earlier dating of Hezekiah's reign represents a coregency, the years specified actually falling in the time of Ahaz.<sup>3</sup> But here a new difficulty arises: from the table it would appear that 701 coincided with Hezekiah's fifteenth regnal year.

With respect to the aforementioned difficulties, one may conjecture, that (a) need not affect the purport of the chronology

<sup>1a</sup> In *HUCA* II, 61 n2, the writer observed that a given conjecture  $y$  "is futile . . . , since we do not know what time in the calendar year Jeroboam II. died." Let the reader note, however, that the reign of Zachariah fell in 38 Azariah (Uzziah) while that of Shallum b. Jabeš is dated by the following, or 39th year, which makes it not improbable that the six months of the former completed the 41st of his father's reign; in which case Jeroboam II. may have died in the middle of the calendar year, i. e. in the interim Adar-(Iyyar).

<sup>2</sup> Schnabel, cited by Forrer in *ZA* 38 (1928-9) p. 215; the apparent discrepancy of c. 18.2 and vv. 9, 10 is probably to be explained by the assumption of a year 0 accession year.

<sup>3</sup> See The Problem of Inconsequent Post-dating, etc., in *HUCA* II, p. 59f.



since Menahem and Pekahiah were expunged from the official annals when Pekah ben Remaliah became king *de facto*, his "twenty years"—at least twelve of which are proleptic—being reckoned from the fall of the house of Jehu. So far as (b) is concerned, the equation 1 Hoshea=12 Ahaz would naturally follow when secondary (i.e. literary) sources—in this instance the prophetic writers—preferred the year 726 (instead of 715) for the epoch of Hezekiah's reign. Accustomed as the Judaeans were to determine current regnal years by their equivalents in the adjacent northern kingdom they would doubtless continue the practice—despite the difference of six months in the respective calendars—after Samaria had become an Assyrian province, so that in (c) we have in all probability to do with the equation 14 Hezekiah: Tišri 703 to Elul 702=Nisan-year 702-01, although 15 Hezekiah would begin in Tišri 702 and the following Nisan-year in the spring of 701.<sup>4</sup> In any case we have to do with a literary (i. e. secondary) source.

The years listed in the Table are "January" (Julian) years, agreeing numerically with those of the Assyro-Babylonian calendar; where confusion might arise, the prefixed "t" shows that the ensuing Palestinian year had already begun in Tišri of the date indicated. Consecutive (=post-) dating is assumed, if only for the reason that the 134 years from 1 Hez. to the fall of Jerusalem which, even if the odd months of Jehoahaz and Jehoiachin be supposed to complete a calendar year, are all that coincident-dating would allow, will either bring 1 Hezekiah downward from 726<sup>5</sup> to 721 or else carry the fall of Jerusalem upward from 586 to 591 before the Christian era,—consequences which are wholly inadmissible. The chief non-Palestinian difficulty lies in the Damascus-campaigns of 733-32; but these prove only that Damascus was then in revolt,—the settlement of Damascene affairs having taken place not earlier than 728 (limmu Duri-Ašur) as the mutilated notice: "the city Di[mašqa] . . ." would seem to indicate.

\* The campaign was evidently on an unusual scale and quite possibly extended over more than one spring (summer). Cf. Isa. 37.30.

† 2 Kings 18.9, 10; the writer holds the date to be co-regnal with 5 Ahaz.

The arrangement of material in the Table requires a brief statement: For comparison with Palestinian sources, the Assyrian data stand in col. A (see No. III), in B are given the names and consecutive regnal years of the Judaeen kings. In C stand the anomalous dating of c. 15.30 and the "siege of Samaria fragment" in c. 18.9, 10, and to these the writer has prefixed the chronographic source of 2 Chr. 7.5, matter affecting the reigns of Ahaz-Hezekiah; in D follow the names and regnal years of the Israelite kings from the fortieth of Jeroboam II to the extinction of the kingdom in the ninth of Hoshea. In listing the Assyrian events it has been thought sufficient to give the name of the country attacked; if instead a pitched battle is specified, this is distinguished by an asterisk (\*). The proleptic years of Pekah, 1 and 13 excepted, are represented by a period(.).

# TABLE

TABLE

TABLE			TABLE		
A. ASSYRIA.			B. JUDAH. (Uzziah-Jotham)		
C. (Ahaz-Hezekiah)			D. ISRAEL.		
B.C.			[PEKAH]		
750	4	...	40		Jeroboam II.
749	5	E Namri	41		Zachariah
748	6	E Namri	a	1	Shallum
			b	0	Menahem
747	7	...	(1)	1	
746	8	...	...	2	
TIGLATH-PILESER III.			...	3	
745	1	S birit nari	...	4	
744	2	E Namri	...	5	
743	3	W Arpad	...	6	
742	4	W Arpad	...	7	
741	5	W Fall of Arpad	...	8	
740	6	W (Arpad)	...	9	
739	7	W Ulluba	...	10	(accession of Pekahiah)?
738	8	W Kullani	...	0	Pekahiah
737	9	E Matai	(13)	1	2a (Pekahiah slain)
736	10	N Mount Nal	14	b	Pekah ( <i>de facto</i> reign)
735	11	N Urartu	15		
			16		
734	12	W Pilišta	17		
733	13	W Dimasqa	18		
732	14	W Dimasqa	19		
731	15	S Sapia	20		
730	16	...			
729	17	S (Babylon)			

<sup>a</sup> The years enumerated to the left in the Judaeen column (C) are given a separate dating because of their bearing on the writer's interpretation of the Assyrian entries for 734-732; 2 K. 16.1 stands in column D (Israel) because it determines the 17th official year of Pekah.  
<sup>a</sup> Hoshea dates from his appointment by Tiglath Pileser; it is here assumed that Pekah was not slain till after Tisri (Sept.-Oct.) 729, i. e. there was an interval of disputed succession.

T A B L E

A. ASSYRIA.		B. (Uzziah-Jotham)		JUDAH. (Ahaz-Hezekiah)	C.	D. ISRAEL.
728	18 W	D[našqa]	20t*	4	0 Hezekiah	3 Hoshea
727	19 . . .	d. Tiglath Pileser.		5	1	4
SHALMANESER V.						
726	1 . . .			6	2	5
725	2 . . .			7	3	6
724	3 W	[Samaria]		8	4 1*	7 Siege of Samaria
723	4 W	[Samaria]	2 K. 18.9, 10	9	5 2*	8
722	5 W	[Samaria]		10	6 3*	9 Fall of Samaria
SARGON						
721	1 S	Battle of Deri		11	Ahaz.	
720	2 W	Battles of Qarqar and Rapihi		12		
719	3			13		
718	4			14		
717	5 W	Fall of Carchemish		15		
716	6			16		
715	7		d. Ahaz		0 Hezekiah	
714	8 NE	Zikirtu, (N) Urartu			1	
713	9				2 (1) . . . ?	
					(2 K. 18.13	
					3	
					.	
					.	
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					(14) . . .	
					2 K. 18.13	
SENNACHERIB						
704	1					
703	2					
702	3					
701	4 W	Phoenicia and Palestine				



In the foregoing Table the writer has sought only to discover the problematic content of the questions at issue, for which reason the Palestinian sources are allowed to tell their own story without any antecedent attempt to accommodate them to the testimony of the inscriptions. Even the Canon affords some warrant for this, since if the settlement of Damascene affairs took place "not earlier than 728," the siege and fall of the city can hardly be dated in 733-2. Palestinian evidence—quite apart from 1 Chr. 27.5—would appear to synchronize those years with the sole reign of Jotham.

Matters that claim particular comment are: (a) the reinserted annals of Menahem and Pekahiah, 2 K. 15.17-26. That this section was restored to its proper place after having been expunged by the anti-Assyrian party when Pekah b. Remaliah seized the throne, and that the reinsertion was later than the year 729-8, is clear from the circumstance that the scribe responsible for this knew the Assyrian monarch by his Babylonian throne-name Pulu (פול).<sup>7</sup> It is also apparent that Pekah's twenty years are in large part coincident with the expunged reigns of Menahem and Pekahiah, and what is more to the purpose the numbers are mutually confirmatory, since the statement that Pekah "reigned" or "became king" in 52 Azariah (Uzziah) can be understood only of his *de facto* government and therefore presupposes the inconsequent post-dating characteristic of the rival dynasty.<sup>8</sup> But it is equally clear that none of the circumstances detailed by our Palestinian source suit the *durbar* of the year 738, nor is there any reason why Menahem should *then* have been singled out for the payment of an extraordinary tribute. The general agreement of the Palestinian data and the expression "that his hand might be with him to confirm the kingdom in his hand"<sup>9</sup> shows that the event—unless the scribe was drawing on his own imagination—must be placed not later than 747 B.C., but more probably (see Table) a year earlier. That year was however the sixth of Ašur-nirari V,—but since the publication of the "treaty with

<sup>7</sup> King-list A, col. iv; Bab. Chron. B., I, 19-26; Can. Ptol., ann. Nab. 21-25.

<sup>8</sup> 2 K. 15.27.

<sup>9</sup> להיות ידיו איתו להחזיק הממלכה בידו.

Mati-ilu"<sup>10</sup> we are no longer obliged to say that such an expedition as that described in 2 K. 15.19, 20 was impossible, or that Menahem by his steadfast adherence to the Assyrian cause may not have contributed to turn the scale against the Haldian dynasty of Urartu.

We now turn (b), to the relationship of Hezekiah to Ahaz: the former became king when he was 20, at the lapse of sixteen years he was followed by his "son," Hezekiah, aged 24 (2 K. 16.2; 18.2), the difference of their respective ages being eleven years. The writer has elsewhere argued<sup>11</sup> that Hezekiah was really a younger brother of Ahaz, and his "son" only by adoption; it is at any rate noteworthy that the mother of Ahaz is nowhere mentioned, but the omission becomes intelligible if she was likewise the mother of Hezekiah and both kings sons of Jotham. Since this problem may claim fuller discussion in the near future, we pass to—

(c) The so-called "twentieth" year of Jotham (c. 15.30) in the light of c. 18.9, 10.

The character of Ahaz is drawn in the darkest colours (c. 16.3f., 10ff., 17f.), and that this adverse judgment was of contemporary origin is clear, not only from Isa. 7.10 but also from the cuneiform orthography of his name Ia'uḫazi (= Jehoahaz),—all of which goes to show that he was *persona non grata* with the prophetic party<sup>12</sup> not merely after his decease but in his lifetime as well. Now the writer holds that the anomalous datings of 2 K. 15.30; 18.9, 10 are an expression of the same feeling; that is to say, the extremists of the prophetic party went on dating by regnal years of the deceased Jotham till Ahaz made Hezekiah his colleague and prospective successor; c. 18.9, 10 is, therefore, derived from a contemporary source although Ahaz was still the *de facto* king.

<sup>10</sup> Cf. Olmstead, *History of Assyria* (1923), pp. 172-4; to the writer it does not seem so improbable that Pulu = Tiglath-pileser was senior to Ašur-nirari (Op. cit., p. 175n), if born of a concubine; or that his father, supposing the latter to have been the unnamed king of the eclipse year (763, - ? Adad-nirari), may not, in the like case, have been senior to Ašur-dan III.

<sup>11</sup> *HUCA* vol. II, p. 59f.

<sup>12</sup> The abbreviation Ahaz seems to express the feeling that the name JHVH was dishonoured by its mere connection with such a man.

To summarise the evidence: We have the alternative (a) of moving 1 Ahaz back to 742 B.C.E. with the result of making that king coregent with his grandfather Uzziah for at least nine years and eliminating the sole reign of Jotham; or (b), while retaining the equation 12 Ahaz = 1 Hoshea, of making Ahaz follow Jotham's sole reign but likewise synchronising Hoshea with Sargon instead of with Shalmaneser V.<sup>13</sup>

What then of the position maintained in the present article? 1) From c. 16.3, where Ahaz is accused of child-sacrifice, it may plausibly be argued that he left no male offspring.<sup>14</sup> If there were yet a surviving son, one would not unnaturally expect the reading בכורו "his firstborn." 2) Not only had Ahaz to face the hostility of the prophetic party, but Egyptian intrigue was rife (c. 17.4), so that by making Hezekiah nominally coregent he could at least hope to disarm those whom he had most deeply offended and at the same time provide for the safety of the kingdom and the perpetuity of the Davidic dynasty in the event of Egyptian intervention,—and how confidently this was expected by the anti-Assyrian party is shown by the prolonged and desperate resistance of Samaria. 3) The outburst of Messianic enthusiasm, by far the most enduring result of this troubled period, surely calls for something more than the general posture of affairs,—and what else could have been so suggestive as the anointing of a Davidic prince about whom, then and for a dozen years thereafter, the hopes of the prophetic party might centre? Granting that 4) the Immanuel: Mahershalal-hash-baz utterances of Isaiah belong to a slightly earlier time, the writer accepts Floigl's conjecture that in Hezekiah *de facto*, as already in Ahaz *de jure*, the two crowns of Israel and Judah were reunited; the queen-

<sup>13</sup> The difficulties in the way of the former supposition advocated by Julius Lewy, *Die Chronologie der Könige von Israel und Juda*,—are insuperable. See the review by Begrich in *ZDMG.* 83 (NF. 8) 1929, pp. 92–94, especially p. 93. The second alternative is even more hopeless, cf. David G. Fotheringham, *Chronol. of the Old Testament* (1906), 58f., comp. 141–143, as will appear to any unbiased reader of 2 K. 17.3ff., 18.10.

<sup>14</sup> וגם אחיבנו העביר באש כחעבות הגוים etc., so likewise the LXX: καὶ γε τὸν υἱὸν αὐτοῦ διῆγεν ἐν πυρὶ, κατὰ τὰ βδελύγματα τῶν ἐθνῶν, κατλ.

mother Abi[jah] being none other than the daughter of king Zachariah.<sup>15</sup>

(d) The solution proposed for the equation 701 B.C.=14 Hezekiah is in substance: that where reference was had to the usage of the adjacent Assyrian province (Samaria) the same rule which made I Hez., beginning with Tišri 716 equivalent to the Nisan-year 715-14 would make 14 Hez. (Tišri, 703) equivalent to the Nisan-year 702-701,—but here apparently with the result that events happening in the second half of 15 Hezekiah (Tišri, 702,—i. e. in the spring-summer of 701) are treated as if occurring in the corresponding half of the aforementioned Nisan-year, which had in fact ended with the preceding Adar!<sup>16</sup>

### III. ASSYRO-BABYLONIAN DATA

Here the crucial points are,—a) the Assyrian dating of Tiglath-pileser's (Pulu's) two Babylonian regnal years; b) the Chaldaean (Sapia) campaign of the year 731, and c) the three Palestinian campaigns of the years 734-32.

(a) In 1915 the writer held that the Canon-entries for the later years of Tiglath-pileser III may have been shifted upward one, and quite possibly two years, and to his subsequent regret he repeated this statement without comment or qualification at

<sup>15</sup> 2 K. 18.2; 2 Chr. 29.1; Floigl, *Die Chronologie der Bibel, des Manetho und Beros* (1880), p. 120. A name without nearer qualification implies preeminent station (so Floigl), either as priest or king. That such a reunion did in fact take place was inferred more than two centuries ago by Humphrey Prideaux, *The Old and New Testaments Connected*, vol. I (1715), s. ann. 610. It is at any rate clear that contemporary prophets (e. g. Hos. 1.4; 7.7; 8.4) held the northern kingdom to have ended with the fall of the house of Jehu, the subsequent kings being mere "claimants" without any call from JHVH.—Compare the descent of k. Abijam from Absalom, 1 K. 15.2; 2 Chr. 11.20-22.

<sup>16</sup> Those who recall how many otherwise intelligent persons were puzzled as to whether the twentieth century began with 1900 or 1901, will not pronounce this impossible. Probably every one of ■ has at some time or other had the analogous experience, that after dating our correspondence correctly in the opening months of the current year, we have—somewhere about March or April—dated a letter in the bygone year. We may fairly allow the same predicament to a Hebrew writer—himself presumably not an official annalist—who flourished some seven centuries before the Christian era.

the New Haven meeting of the Amer. Oriental Society in 1925. Quite clearly however the entries for the years 729–728 require a different sort of explanation,—namely, that the scribe, whose view-point was determined by his Assyrian patriotism, treated the “taking the hands of Bel” as the culminating phase of events happening in 729, and again in 728—although, as the concurrent testimony of Babylonian sources proves, the ceremony actually took place in 728 and 727, the two years in which Tiglath-pileser was king of Babylon.<sup>17</sup> The same line of reasoning applies to the Chaldaean expedition of the year 731. Ukin-zer was no ordinary rebel: he was an anti-king. Had he been a native of Babylon, his accession would have involved nothing treasonable; but that a Chaldaean chieftain from the marshlands should seize the crown of Hammurapi was an act of defiance to Tiglath-pileser—he had claimed a higher dignity than that of his imperial master. The campaign of 731 was therefore a counter-move and much more significant in its political implications than as a military achievement: the usurper’s reign must be “cancelled,” so to speak, at the very outset, and it is certainly worthy of remark that our source belongs, at the very earliest, to the year 729, but more probably to 728,—the last complete year of Tiglath-pileser’s reign.<sup>18</sup> Not less noteworthy is the circumstance that while the impalement of Nabu-ušabši prince of Šilani and the captivity of Zakiru of Ša’alli are narrated circumstantially, we learn nothing further of Ukin-zer except that he was blockaded in Sapīa, and that here—presumably in the camp before the not-yet captured town—Merodach-baladan and two other Chaldaean kings did homage. As the document is merely “copy” for an intended Display-inscription we cannot say how the details may have been manipulated, but it is certainly a fair inference that Sapīa yet uncaptured when II R. 67 was written, and this suggests the question: Was Tiglath-pileser called away from the siege by more pressing business in some other part of the Empire? In view of the following Damascus notice (728: l. Duri-Ašur), may we not

<sup>17</sup> Bab. Chronicle B, I, 18–26.

<sup>18</sup> See the Clay Tablet of Calah (Nimrūd) II R. 67, obv. 15–20; 23 (Ukin-zer)–25; for the date, see Rost, *Die Keilschrifttexte Tiglat-pileser’s* III. I, Einleitung ii, with which cf. Schrader’s note in *KB*. II, S. 9n.



suppose that he left camp at Sapia to receive the homage of the assembled Syrian princes—the list of whom is here (rev. 57ff.) given—at Damascus?<sup>19</sup> Granting the aforesaid conjecture, one simply gives full credit to Babylonian testimony on matters specifically Babylonian, and—thus viewed—the course of events is in surprising agreement with our Palestinian data. The last event mentioned in II R. 67—the indemnity exacted of Tyre—seems likewise to have found a place in the Canon though Olmstead leaves it an open question; but under the years 725-23, where only the preposition *ana* (“to” or “against”) was legible to the first decipherers, he has no hesitation in restoring Samaria (Samerina) as the name of the place attacked. If, as we have supposed, the Damascus *durbar* took place, not in 732, but in 729, Hoshea will then have been appointed as the Assyrian candidate (730-22) for the throne of Israel,—his reign will not exceed the nine years of 2 K. 17.1 and Palestinian chronology be in accord with Assyrian.

But what of the western campaigns which the Canon assigns to the years 734-32? According to the usual view these years represent the last struggle of the Syro-Ephraimitic league culminating in the fall of Damascus: Palestinian chronology, however, seems to equate them (see Table) with the sole reign of Jotham. This is a serious discrepancy, but the alternatives are clear and unescapable: Either the Syro-Ephraimitic attack on Judah (Isa. 7.1-16; 2 K. 16.5-9) took place just *before* or immediately *after* this group of campaigns. The usual interpretation of the Canon sustains the former alternative;<sup>20</sup> Palestinian chronology appears to require (see Table) the latter. With some diffidence the writer ventures to state the case for the second alternative.

Thanks to the vandalism of Esarhaddon, but few dates are preserved in the sadly mutilated Annals of Tiglath-pileser III.

<sup>19</sup> Cf. Olmstead, “The Assy. Chronicle” (II R. 52) in *JAOS* 34, iv (1915) pp. 344-68, particularly p. 357: “The mutilated place name here must be restored ■ ‘Damascus’,” and therewith n. “4 The Di, omitted by later editors, was evidently clear in the time of G. Smith, *Trans. Soc. Bibl. Arch.* II, 321ff.” Cf. Forrer, *Zur Chronol. der neuassy. Zeit*, S. 32 (Zeittafel, s.a., 728).

<sup>20</sup> For an able, many will say a convincing statement of usual interpretation, see Begrich, *Der syrisch-ephraimitische Krieg und seine weltpolitischen Zusammenhänge*, *ZDMG* 83 (NF 8) 1929, S. 213-237.

one of these however is that of the Median campaign of his ninth regnal year, which shows the agreement of the Canon with the Annals down to 737 B.C.,<sup>21</sup> and inferentially till 735—the year next preceding the group of campaigns under discussion. The next explicit date—apart from the Canon—is that of his seven-teenth regnal year (729).<sup>22</sup> So far as subject-matter goes, we are even worse off: for a) first-hand evidence is virtually wanting, and more especially for both date and sequence of the decisive operations against Damascus,<sup>23</sup> and further, though analogy is not a particularly strong argument, yet b) it would seem strange if war on the Armenian front ended with the campaign of 735; Sargon made a similar expedition in 714, yet found enough to do in the adjacent regions, both NW. and SE. for three years longer. The order of events c) in II R. 67—geographical according to Olmstead (op. cit., p. 33f.), while Pl. I (Layard, 17, 18), with textual agreements, is chronological—which may imply that Tiglath-pileser's wars were not strictly consecutive, as inferred from the Canon-entries, but overlapped to some extent; so that "if," d) the coincidence of the years 734–32 with the sole reign of Jotham (see Table) be allowed, the campaigns dated by them may be construed as preliminary actions *merely*, and hence not including the final defeat of Reşin or the siege of Damascus. In other words, one may interpret them by the analogy of the immediately following Sapia expedition, in the light of a critical situation rather than as achieved military results. If such were the case, what then e) may we conceive to have been the course

<sup>21</sup> Slab xvi, lines 153–164,—l. 157 in Rost, op. cit. S. 26.

<sup>22</sup> II R. 67,5.—The closing paragraphs, relating to Tyre and Tabal, seem to embody the "latest news" from the western provinces: cf. Olmstead, *Assyr. Historiogr.*, p. 34, who cites the Tyre-paragraph for 728 as the probable date of composition. Since, then, the list of vassals immediately precedes the Tabal-paragraph, the sequence appears to favour our conjecture that the Damascus *durbar* took place not earlier than the year 729.

<sup>23</sup> Slabs viii (\*see Rost), lines 185–196, and xxii, 197–209 (op. cit., pp. 30–36) are either completely erased or offer here and there detached phrases—at most defective sentences (cf. Ebr. Schrader's remark, *KB*. II, 31n.); while, to our further ill-luck, II R. 67 is broken so that we do not have the aid of that document for the period most desiderated (cf. Olmstead, *Assyr. Historiography*, 1916, p. 33f.).

of events? Had Tiglath-pileser left the Armenian front immediately after the campaign of 735, his "retreat" might have proved as disastrous to him as that from Moscow to Napoleon. According to our Palestinian sources the western revolt—signalised by the death of Uzziah (Isa. 6.1) and the assassination of Pekahiah—broke out (735) when Tiglath-pileser was at the gates of Ṭuruspa (Van); whether it was strategically practicable, as commonly assumed, for him to leave the Armenian for the Syrian front is beyond our means to determine. The obvious thing was to cut Palestine in two by keeping the rebellious Philistines from joining hands with the rebellious Arameans; make a large use of native auxiliaries, allowing "loyal" vassals considerable freedom of action; promise aid to the Assyrian party in the states that had rebelled, and keep open one or more of the routes from the Palestinian hinterland to the Euphrates valley.<sup>24</sup> Judah and Ammon were naturally the strategic points, and if sentiment at the latter inclined toward Damascus it would have been sound policy to let the Judaeen king, Jotham, hold the Ammonites in check while—with a commission to himself—collecting the sinews of war for the imperial forces operating in Palestine. But this is exactly the situation implied by our Biblical sources, which, though scanty enough, are at least more explicit than the Canon-entries.<sup>25</sup>

<sup>24</sup> Cf. Berossus in Josephus c. Apionem I, 19; for the topography of the several routes across the Syrian Desert, see Alois Musil, Verkehrswege über Samawa zwischen al-'Erak und Syrien in *WZKM* XXIX, 3–4 (1915), S. 445–462 and particularly the map opp. 462. The importance of such routes, despite the risks involved, exposed though they were to insurgent Damascus on the one hand and to insurgent Adumu (Dumat al-Jendel) on the other, will be clearly apparent.

<sup>25</sup> 2 Chron. 27.5 clearly implies a chronographic source and the years specified are precisely those of the Canon, \*733–32; with the foregoing, compare Ahaz's appeal for help 2 K. 16.7, where "son" is an anticlimax to "servant": may we not conjecture that three letters have fallen out of the text, the original reading having been a) עֶבֶרְךָ וְבֶן-עֶבֶדְךָ אֲנִי —: I am thy servant and the son of thy servant, the allusion being to the part played by Jotham in the previous campaigns, or b) עֶבֶרְךָ וְעֶבֶד-בֶּן אֲנִי, I am thy servant and the servant of thy son, with reference to Shalmaneser (V) as governor of Šimirra and vicegerent of the western provinces? Cf. Forrer, *Provinzeinteilung*, S. 63. Later, we may suppose, the recurrence of 'ebed was felt to be a dittography and dropped out of the text.

Just at the crisis of affairs f), Jotham died,<sup>26</sup> Ahaz succeeding at the age of twenty, and the confederates, thinking the scales had turned in their favour, resolved to seize Jerusalem and place a nominee of their own upon the throne of David; for the moment the Judæan capital was panic-stricken.<sup>27</sup> Ahaz then made direct appeal to Tiglath-pileser.<sup>27a</sup> Such the writer believes to have been the probable course of events, credit being allowed to Palestinian sources for matters specifically Palestinian; while conversely, the serious deficiencies of the cuneiform material should make the scope of the western campaigns of 734-32 and the date of the fall of Damascus open questions.

#### IV.

The twenty-nine years ascribed to Hezekiah may be reckoned a) from 728 (= 3 Hoshea), according to 2 K. 18.1; or b), from 727 (= 4 Hoshea), according to v. 9; but if 1 Hoshea = 2 Ahaz, instead of his twelfth year (see Table), we must substitute either c) 716 (= 16 Ahaz), or d) 715 B.C. Two preliminary questions claim our attention: 1) What is the nature of the discrepancy in c. 18.1, 9?, and, 2) How are these several alternatives affected by the equation 14 Hezekiah = 701 B.C.? In the former case we may have to do with an accession-year as distinguished from the "first" year, or with a disputed succession at Samaria, the government being still in the hands of Pekah during 1 Hoshea, *de jure*; in the latter case, it will be sufficient to note that a) makes

<sup>26</sup> 2 K. 15.37; Begrich, to our judgment, goes beyond the requirements of the case in saying: "Nicht herangezogen darf die Notiz 2 Reg. 15.37. Sie ist geschichtlich irrig and wertlos" (S. 214).

<sup>27</sup> Isa. 6.1, 2; it is not improbable that the Aramaean party had gained the upper hand in Rabbath-Ammon and still more likely that Ukin-zer's *coup d'état* at Babylon (732) was encouraged, perhaps instigated, by the Aribi of Adumu (Dumaetha), now Dumat al-Jendel, the connection of the Chaldaeans with Arabia being particularly close. If the appearance of a usurper at Babylon was directly connected with the extremely critical situation in Palestine, Tiglath-pileser would have more than one reason for putting the Sapia-campaign first.

See note 25; the appeal would doubtless be transmitted from point to point by the Assyrian authorities as in the case of the Lydian embassy under Ašurbanipal.

14 Hez. = 715; b) 714, and c, d) 703 and 702 B.C. respectively. The results for a. and b. are: 1) that 14 Hez. would coincide either with 7 or 8 Sargon and in neither case, so far as our present knowledge goes, be connected with any Palestinian campaign; and 2), that 29 Hez. would coincide either with 700 (Tišri, 701) or 699, so that not only would Sennacherib's campaign of the preceding summer, or previous year, have proved fatal to Hezekiah (!), but we must likewise admit a gap of from 1–2 years between the end of his reign and the earliest possible date for his successor, 698,–97 B.C. Overwhelming probability would therefore put the datings by 0 (1), 4, and 6 Hezekiah (2 K. 18.1, 9, 10) in the *de facto* reign of Ahaz, but one need not, on that account, doubt the former's anointing to the kingship at the date specified, for which the like *status* of Cambyses in 539–8,—Cyrus being at the time *šar matâti*, or emperor—offers an interesting and incontrovertible parallel. The alternatives 703, 702 might be treated as equivalent, the former including the accession year (716=16 Ahaz), were it not that 703 (Tišri, 704) is the only possible date for Hezekiah's nearly fatal illness, coinciding as it does with the epoch of Merodach-baladan at Babylon.<sup>28</sup>

There remains, therefore, d), equating Hezekiah's reign with the interval 715–687 B.C. as the only reckoning which will bring 14 Hez. (702) within a year of Sennacherib's campaign in 701. This has already been discussed (§II, d); but it may be pertinent to ask, Whether the identical duration (29 yr.) and like apportionment (14+15 yr.) in Amaziah's case, for the disaster of Beth-Shemesh ends the first half of that king's reign,<sup>29</sup> may not have influenced the literary presentation of the life and times of Hezekiah? One more item possesses at least psychological interest. Many years ago Bosanquet identified the date of Hezekiah's illness with that of the noonday solar eclipse, January 11th, 689 B.C. which is, of course, historically untenable. But it is noteworthy that reckoning from the true date of the king's illness—determined as we have seen by a Babylonian synchronism

<sup>28</sup> ann. Nab. 45 (interregnum); King-List A, col. iv. D. G. Fotheringham's combination of this, *Chronol. of the O. Test.* (1906), p. 60, with Isa. 38.1 is, to our judgment, without textual warrant.

<sup>29</sup> 2 K. 14.2, 17.



which cannot be shifted six months either way<sup>30</sup>—the forementioned eclipse will fall in the first half of the *fifteenth year*. The writer holds it probable—in this he states his personal opinion merely—a) that Hezekiah died within a twelvemonth of the solar eclipse of January 11th, 689 B.C.E.; b) that “the year that king Ahaz died” (Isa. 14.28) was the 27th before that date (716), and finally, c) that “if” Hezekiah survived the month of Tišri (Sept.-Oct.) 689, this would be the beginning of his 29th regnal year according to earlier Palestinian usage.

<sup>30</sup> See n. 28; cf. Isa. 38.5,—the reader will note that the “sign” of v. 22 is not explicitly identified with the “bringing again the shadow” in v. 8, though this is clearly the case in 2 Chron. 32.31; it would seem, therefore, that the eclipse is really intended by the former passage, perhaps because it marked the lapse of the 14th or the beginning of the 15th (conventional) [the calendar year began with Tišri, 690] year since Hezekiah’s recovery in 703.

The outlook about 691–89: The situation was much like that of 733–32, or again in 703–01, only more critical. In 691 occurred the battle of Halule; in 690 Sennacherib made an expedition by way of Eastern Palestine against the Aribi and (See Musil’s map in *WZKM* xxix, 3–4 (1915), opp. p. 462) Adumu, and 689 he captured and destroyed Babylon.

## SEPTUAGINTA UND TARGUM ZU PROVERBIA

A. KAMINKA, Maimonides-Institut, Wien

**D**AS Verhältnis der Septuaginta zum masoretischen Text der Sprüche Salomos ist bereits im 18. Jahrhundert Gegenstand gelehrter Untersuchungen gewesen. G. J. K. Vogel (1769) und J. G. Jäger (1788) haben an vielen Stellen die Diskrepanz im Griechischen gegenüber dem überlieferten hebr. Text durch plausible Vermutungen auf abweichende Lesarten in der Vorlage zurückgeführt. P. de Lagarde, der in seinen *Anmerkungen zur griechischen Übersetzung der Proverbia* (1863) auf die Arbeiten dieser Forscher die Aufmerksamkeit lenkt, hat seinerseits die Entstehung mancher vom Original stark abweichenden Worte und Sätze auf fehlerhaft gelesene Worte im Hebräischen zurückzuführen versucht. Eine Anzahl von Stellen wurde von Mezzecasa, *Il libro dei Proverbi di Salomone, studio critico* (Roma, 1913) behandelt. Die neueren kritischen Kommentare führen gelegentlich, aber nicht konsequent, die Varianten der LXX an, besonders wo sie glauben, Konjekturen durch sie stützen zu können. Es haben jedoch bereits so gute Kenner der LXX wie Driver und Swete darauf hingewiesen, dass Schlussfolgerungen aus dem Griechischen für die Rekonstruktion eines vermuteten richtigen hebr. Textes nur mit grosser Vorsicht zu ziehen sind, da die Übersetzer in Alexandrien das Hebräische zum Teil nur unvollkommen erlernt und schwierige Worte, namentlich in poetischen Stücken oft nicht richtig verstanden haben.<sup>1</sup> Andererseits haben unsere Untersuchungen ergeben, dass zahlreiche für Fehler und Missverständnisse gehaltene Übersetzungsstellen im Griechischen gar nicht auf mangelndes Wissen, sondern auf eine

<sup>1</sup> "The majority of the translators had probably learned the sacred language in Egypt from imperfectly instructed teachers, and had few opportunities of making themselves acquainted with the traditional interpretation of obscure words . . . The want of a sound tradition is especially manifest in poetical passages" (Swete, *Introduction to the O. T. in Greek*, 1902, p. 319).

besondere *Methode der Interpretation* zurückzuführen und manchmal nur *agadische*, auch von palästinensischen Gelehrten des 1. und 2. Jahrhunderts im Talmud überlieferte Auslegungen sind.<sup>2</sup> Es genügt als Beispiel darauf hinzuweisen, dass ein scheinbar so krasses „Missverständnis“<sup>3</sup> wie *Ῥῆχαβ διεστείλατο* für כרב ברול sich durch eine in der Mechilta erhaltene Tradition als wohl erwogene Auslegung erweist.

In jüngster Zeit ist zum textkritischen, sagengeschichtlichen und exegetischen (für den Pentateuch besonders auch die Entwicklung der Halacha betreffenden) Interesse, das die griech. Übersetzung bietet, durch Wutz' Hypothese noch ein paläographisches hinzugekommen. Seine geistreiche, wenn auch durch den grossen Aufwand von Scharfsinn nicht genügend gestützte Vermutung, dass die Übersetzungen nach einem mit griechischen Lettern transkribierten Text verfasst wurden, hat eine Reihe von gelehrten Studien hervorgerufen, in welchen nachgewiesen wurde, dass sie keineswegs angenommen werden kann und die Vorlage nur ein hebräischer Konsonanten-Text, „hinneigend zur Quadratschrift“ gewesen sein muss. Joh. Fischer ist zu diesem Ergebnis in Untersuchungen zum Pentateuch,<sup>4</sup> zu Amos<sup>5</sup> und zu Jesaja<sup>6</sup> gelangt. Meine ohne Kenntnis dieser Arbeiten aus verschiedenen Büchern des A. T. gesammelten Materialien, von denen die die XII kl. Propheten betreffenden in den oben erwähnten *Studien* mitgeteilt wurden, ergaben in den Listen der vorkommenden (oder zu vermutenden) Kosonanten-Verwechslungen ein ähnliches Resultat. Wutz' Theorie wurde neuerdings auch von Barrois<sup>7</sup> abgelehnt.

Die hier vorliegende Untersuchung schliesst sich zunächst mit Bezug auf die alexandrinische Version den erwähnten, die *Schrift*

<sup>2</sup> Vgl. Kaminka, *Studien z. Septuaginta, a.d.H. der XII kl. Proph.*, Frankf. a. M. 1928 (aus *MGWJ*, 1928) S. 31–38.

<sup>3</sup> Swete, ib. 324.

<sup>4</sup> *Das Alphabet der LXX-Vorlage im Pentateuch*, Münster i./W 1924; *Zur Septuag.-Vorlage im Pentateuch*, Giessen 1926.

<sup>5</sup> *Tübinger Theol. Quart.* 1925, 308–335.

<sup>6</sup> *In welcher Schrift lag das Buch Isaias den LXX vor?* Giessen, 1930. (Die S. 16 erwähnte Kritik der Methode des Verf. ist sicher ungerecht).

<sup>7</sup> Une nouvelle Theorie de l'origine des LXX, *Revue Biblique*, 1930.

der Vorlage behandelnden Arbeiten an. Die gewonnene Erfahrung veranlasst mich dabei, auf eine Behandlung der nur ganz *vereinzelt* vorkommenden Verwechslungen zu verzichten, da sie nichts beweisen, und mich auf die in *sehr grosser Anzahl* vorkommenden zu beschränken, die allein zu Schliessfolgerungen hinsichtlich der Schrift berechtigen.<sup>8</sup>

Von besonderer Tragweite für die Textkritik und die Geschichte des Kanons ist aber der Vergleich der LXX mit dem Targum.

Das Targum zu Proverbia ist ein Problem für sich. Es unterscheidet sich von den Targumim zu den anderen Hagiographen (Psalmen, Hiob, Fünf Rollen) dadurch, dass es im Allgemeinen frei von agadischen Deutungen und Paraphrasen ist und eine einfache, wenn auch stellenweise freie Übersetzung in der Art der LXX darstellt. Andererseits zeigt das Targum die Eigentümlichkeit, dass es eine sehr grosse Anzahl *syrischer* Worte und Formen enthält (auf viele hat S. D. Luzzato im angehängten Glossar zu seinem *Oheb ger*, 2. Aufl. 1895, S. 105–123, hingewiesen), dass es sehr ähnlich der syrischen Übersetzung (Peschita) ist und mit dieser in fast 300 (von 915) Versen übereinstimmt. Wichtiger noch ist die sonderbare Erscheinung, dass diese aramäische Übersetzung zu unserem Buche *wie in keinem anderen der Bibel* in einer besonders grossen Zahl von Stellen *vom masoret. Text abweicht* und darin *mit LXX (G.) übereinstimmt*. Über die syrische Übersetzung (S.) hat H. Pinkuss eine sehr eingehende Untersuchung angestellt, in der er auch Targum

<sup>8</sup> Indem ich dabei meine eigenen alphabetischen Listen der Verwechslungen, soweit es sich um *sporadische* Fälle handelt, nachträglich als überflüssig betrachte, darf ich dies wohl auch mit Bezug auf die ähnlichen Beispiele bei Joh. Fischer sagen, umso mehr da manche der von ihm vermuteten Verwechslungen gar keine sind und die betreffenden Stellen aus dem rabbinischen Schrifttum ihre Erklärung finden. So ist Gen. 14.5 הוויים *λοχρά* nicht durch ה für γ entstanden, sondern es stimmt mit Targ. Onk. und Targ. Jon. תְּקִיפִיא = הוּעִזְזוּיִים das γ als ausgefallen aufgefasst (wie מְבָרָא = מעברא (בְּעַל = בַּל, Gen. 27.29 und Jes. 34.1, 41.1, 43.4 ῥῥῥῥῥῥῥ für לאמים ist nicht eine komplizierte Konsonanten-Verw. in מְלָאכִים (!) — wie könnte auch das Wort an so zahlreichen Stellen verballhornt sein! — sondern durch Talmud b. Sebachim 102a zu erklären (אֵין הָלוֹם אֵלָא מְלָכֻת) es wurde הָלוֹם = הָלוֹם als Herrschaft verstanden und so von Targ. Jon. Gen. 25.3 שְׁבִיכִים — אִמְרָכִי שְׁבִיכִין Deut. 29.9, ולאמים — רִישִׁי אֹמִין

(T.) behandelt.<sup>9</sup> In der Frage, ob T. von S. abhängig ist, wie Dathe (*De ratione consensus versionis chaldaicae et syriacae Proverbiorum Salomonis*, 1796) und später Eichhorn, Hitzig und Nöldeke angenommen haben, oder umgekehrt S. von T., wie Maybaum (in Merx' *Archiv f. wiss. Erforsch. d. A. T.*, II) mit gutem Grunde vermutet, schliesst sich Pinkuss den ersteren an. Er erachtet es mit Recht als unwahrscheinlich, dass der Targumist etwa aus dem Griechischen übersetzt hätte, aber merkwürdigerweise nimmt er an der anderen Unwahrscheinlichkeit keinen Anstoss, dass ein jüdischer Gelehrter (und ein solcher wird doch wohl der Verfasser des Targum gewesen sein) nicht aus dem hebräischen Original übersetzt oder dieses nicht wenigstens zu Rate gezogen hätte.<sup>10</sup> Und hätte er das getan, so hätte er doch mindestens so viel wie der Christ Hieronymus für die „hebräische Wahrheit“ Interesse gehabt und die falschen Übersetzungen richtiggestellt (nach Nöldeke nahm er wohl auf MT Rücksicht, blieb aber doch von S. abhängig).

Hier ist nun ein Punkt, an den ich anknüpfen möchte, um eine prinzipielle Ansicht über das Alter gerade derjenigen Targumim auszusprechen, die zahlreiche und erhebliche Abweichungen vom mas. Text aufweisen. Im Gegensatz zu der Anschauung, dass sie späten Ursprungs wären, halte ich es für

<sup>9</sup> ZAW, 1894, S. 65–141 und 161–222. Es ist in dieser Arbeit jedoch vorwiegend S. die Aufmerksamkeit zugewendet, T. wird nebenbei angeführt und mitunter wird eine Ähnlichkeit angenommen, wo sie in Wirklichkeit nicht besteht (wie 20.6 חסדו קרא אים חסדו G. μέγα ἀνθρώπος καὶ τίμιον ἀνὴρ ἐλεῆμων, T. נברִי מרחמיִן . . . מִתְקַרֵּן). Die Angabe, S. 110, dass T. an „mehr als 100“ Stellen mit G. übereinstimme, wo auch S. = G. ist, scheint mir für T. übertrieben zu sein (obwohl manche Stellen übergangen sind, 2.17, 3.12, 6.7, 8.13, 8.30, 15.4, 17.12, 18.6, 26.3, 26.5, 27.22, 30.31). In den von uns w. u. angeführten mehr als 80 Stellen sind solche enthalten, wo die Übereinstimmung sich nur auf ein Wort oder einen Satzteil bezieht und im Übrigen die Interpretationen weit auseinander gehen.—Auf P.'s Berechnung scheint die Angabe bei Kahana, *Einl. z. hebr. Kommentar der Prov.*, 1929, S. 26, zu beruhen, was mir bei der Besprechung des Buches, *MGWJ* 1930, 323, nicht bekannt war.—Immerhin ist die Anzahl der Übereinstimmungen eine so grosse und frappante, dass für den Zweck dieser Untersuchung von einem Vergleich der Codd. für T. (vgl. ZAW, ib. S. 84–94) und G. abgesehen werden konnte. Varianten einzelner Stellen ändern das Bild nicht wesentlich.

<sup>10</sup> Dass S. aus dem Hebr. übersetzt hat, hält er für sicher (S. 113).



sicher, dass, nach der Fixierung des mas. Textes, wie er durch die vielen agadischen Deutungen von Tannaiten und paläst. Amoräern bezeugt ist, kein jüd. Gelehrter eine Übersetzung nach einer fehlerhaften Vorlage machen konnte. Ein solches Werk hätte als das eines Ignoranten keine Aufnahme gefunden (vielleicht hat deshalb Rabban Gamliel eine Hiob-Übersetzung beseitigen, wenn auch nicht direkt vernichten lassen; von Proverbia ist derartiges nicht überliefert). Die Bücher des Kanons waren in jedem Zeitalter den Gelehrten in verlässlichen Abschriften bekannt. Zu den Sprüchen Salomos werden Erklärungen schon aus dem *ersten* Jahrhundert überliefert, und zwar auch zu schwierigen Versen, bei denen die alten Versionen Abweichungen zeigen (wie z. B. 14.34 von R. Jochanan b. Zakkai und seinen Schülern, s. w. u. bei den Verwechs. 7-7; 11.26 von Simon he-Chassid) ohne dass, selbst wo man sich durch zahlreiche Deutungsversuche um die Herausfindung des Sinnes bemüht, irgend ein Hinweis auf eine Variante oder ein *al-tikrê* vorkommt. Manchmal bestätigen sogar die „Fehler“ der LXX die Genauigkeit der masor. Orthographie (wie 8.29, s. w. u. bei 1-1, und 25.20 *בְּשֵׁרִים weil ohne י*, als *בְּשֵׁרִים* gelesen).<sup>11</sup> Wenn daher in unserm Buche T. so zahlreiche und dabei mit G. übereinstimmende Abweichungen vom MT zeigt, so können diese nur aus einer *sehr frühen, vortannaitischen* Zeit stammen und sich auf eine Vorlage beziehen, die älter ist als die soferische Redaktion. Diese hat nach meiner a.a. Stelle dargelegten Annahme<sup>12</sup> spätestens im *dritten vorchristlichen* Jahrh. unter alexandrinischem Einflusse stattgefunden. Damals war auch die agadische Methode der Auslegung biblischer Worte noch nicht üblich, daher fehlt sie in unserm Buche. Die Übereinstimmung mit G. ist nicht auf eine Benutzung der alexandr. Version (und noch weniger der syrischen) zurückzuführen, sondern darauf, dass *vor* der Fixierung und der damit verbundenen sorgfältigen Revision des MT durch die Soferim die vorhandenen Texte (die Sätze und häufig auch die Worte ohne Intervalle, ohne Schlussbuchstaben und ohne Vokal-

<sup>11</sup> Vgl. uns. Erklärung zu Micha 3.12 *ὁπωροφυλάκιον* (*Studien zur Septuag.* XII, S. 40).

<sup>12</sup> *Encyclop. Jud.* IV, 621f.

zeichen geschrieben) nach dem Scharfsinn der Leser verschieden aufgefasst werden konnten. Die gleichen Vorlagen wurden von G. wie von S. und T. benützt, die Übersetzungen können alle um dieselbe Zeit, im 3. oder Anf. der 2. vorchr. Jahrh. angefertigt worden sein (sie wurden später an manchen Stellen korrigiert, aber die jüd. Gelehrten, die ja das hebr. Original hatten, kümmerten sich um die *nicht recipierten*, im T. erhaltenen Lesarten nicht). Manche differierende Übersetzung in T. und G. ist auf einen identischen Fehler zurückzuführen (wie bei 31.8). An mehreren Stellen in G., die wir anführen werden, ist der Einfluss des Aramäischen zu vermuten, sodass man annehmen kann, dass T. *älter* ist und von G. (wenn auch nicht gleichmässig) benützt wurde, wie 3.12, 8.23, 8.30, 10.2, 14.30, 15.6, 19.7, 23.4, 26.28.

#### HÄUFIGE KONSONANTEN-VERWECHSLUNGEN

Die bekannten häufigen Konsonanten-Verwechslungen, die auf eine Vorlage in *hebr. Quadratschrift* schliessen lassen, kehren auch in Prov. wieder.

ר-ד (oder ד-ר):

- 5.18: ברוך, ἔστω σοι ἰδία, wahrsch. ולבדך.
- 7.10: ποιεῖ νέων ἐξίπτασθαι καρδίας = צדקה. Die Übersetzung ist verwandt mit T. דמפרדא לבא דעלמי, wo aber viell. für ונצרה gel. w. ומסירה (v. 11 וסוררה übers. מפרידהא vgl. Deut. 7.4 יסיר). Danach könnte man statt der von Lag. vorgeschlagenen Korrektur ἐξίστασθαι eher annehmen ἀφιστάναι.
- 10.21: ידעו רבים, ἐπίσταται ὑψηλά = ידעו רבים.
- 10.25: יסוד עולם, ἐκκλίνας σώζεται = יסוד (עולמה).
11. 8: מקצה, ἐκ θήρας = מקצה (קציד).
12. 2: חמדן רשע רעים ושרש צדיקים יתן, ἐπιθυμίαι ἀσεβῶν κακαὶ αἱ δὲ ρίζαι τῶν εὐσεβῶν ἐν ὀχυρώμασι. Nach Lag. ist statt חמדן von G. חמדן gelesen worden. Näher liegt eine Verschiebung der Worte in der Interpretation anzunehmen חמדן רשע רעים ושרש צדיקים בממדן יתן.

- 13.19: סור מרע, ἀπὸ γνώσεως; auch T. מרע-מן ידיעא.
- 13.20: ירוע, γνωσθήσεται = ידע.
- 14.10: לא יתקרב ו, οὐκ ἐπιμίγνυται ὕβρει = ו.
- 14.34: תפסם חפסם, ἐλασσονοῦσι δὲ φυλάς ἀμαρτίαι, wahrsch. וחקר (oder וחקרים) „eine Herabwürdigung.“ Der Übersetzer machte dadurch aus dem Satz eine regelrechte chiasmatische Antithese (חקר-תפסם; חפסם-חקרים). Aber die mas. Lesart וחסר ist bereits von R. Jochanan b. Zakkai im 1. Jahrh. bezeugt (b. Batra 10b).— Gegenstück zu dieser Verwechslung, 28.22.
15. 4: ידע, γνώσεται = ידע.
- 15.10: מוסר רע, παιδεία [ἀκάκου] γνωρίζεται = ידע.
- 19.23: בל יפקד רע, οὐκ επισκοπεῖται γνώσις = ד.
- 19.27: מאמר ידע, ῥήσεις κακάς = רעות.
- 19.28: ער בליעל, ὁ ἐγγυώμενος παῖδα ἄφρονα = ער בליעל. Die Worte waren in der Vorlage *nicht gesondert* und das ב wurde doppelt gelesen: ערבליעל.
- 21.3–4: מןבחרים, ἢ θυσίων αἷμα = מןבחרים (= וברחים). Es wurde jedoch רום doppelt gelesen, da v. 4 μεγαλόφων beginnt.
22. 8: ושבט עברתו, πληγὴν δὲ ἔργων αὐτοῦ = עבדותו.
- 22.14: ורין, παρανόμου = ו.
- 23.28: תאמר, ἀπολεῖται = תאמר, zugleich Versetzung der Konson.
24. 8: מקשב להרע, ἀλλὰ λογίζονται ἐν συνεδρίοις = מקשב להרועד?
- 24.19: תחקר, χαίρει = תחתוקר.
- 25.20: ושר בשרים, πάθον ἐν σώματι = ושר בשרים. Es liegt nahe, in dieser Fehllesung eine Bestätigung der masoret. Schreibweise (ohne י) zu sehen.
- 27.12: כי עבר ו, παρήλθεν γὰρ ὑβριστής = כי עבר ו (zugl. Kons.-Versetzung).
28. 2: בן יאריך, κατασβέσει αὐτάς = ידע (zug. ע-א und Konson.-Versetzung).

28. 4: וְהָיוּ, περιβάλλουσιν ἑαυτοῖς τεῖχος = וְהָיוּ (vgl. Micha 4.14 LXX nach uns. Erklärung *MGWJ* 1928, 265; אָנוּ = נָדָר auch T. Ps. 62.4).

28.17: עָדָּבָר, ἐγγύωμενος = עָרְבוּ (ר für ו gelesen).

28.22: וְבִשְׁרָר, ὅτι ἐλεήμων κρατήσει αὐτῶν = שָׁרָר oder שָׁרָר (cf. 14.33).

ח-ה:

1.21: חָמַח, ταχέων = חָמַח, auch S. und T. חָמַח (Hieron. bereits korrigiert: turbarum).

5.11: חָמַח, μεταμεληθήσῃ = חָמַח.

9. 1: חָמַח, ὑπήρεισε nach Vogel und Lag. חָמַח.

9.13: חָמַח, ἐνδεής ψωμοῦ γίνεται ist vielleicht חָמַח od. חָמַח (cf. Ezech. 13.14), zugl. Verwechs. ח-ד.

10. 3: חָמַח, ζώην = חָמַח (ähnl. T. חָמַח), zugl. ח-ו.

11. 7: חָמַח, καύχημα = חָמַח.

18.21: חָמַח, κρατοῦντες αὐτῆς nach Jäger: חָמַח, zugl. ח-ו.

25. 2: חָמַח, τιμᾶ = חָמַח (Jäger). Ebenso:

25.27: חָמַח, τιμᾶν δὲ χρή = חָמַח.

26.22: חָמַח, μαλακοί = חָמַח.—Vielleicht aber nach dem aramäischen חָמַח falsch gelesen חָמַח.

30. 1: חָמַח, τοὺς ἐμοὺς λόγους νιὲ φοβήθητι καὶ δεξιόμενος αὐτοὺς μετανόει „meine Worte, mein Sohn, fürchte, empfange sie und überlege sie dir“ = חָמַח (nicht als Schlussbuchstabe geschrieben).

30. 9: חָמַח, τίς μὲ ὄρα; der Gottesname im Tetragramm (wie auch Jes. 4.5, 28.21 wo er verlesen ist in יהיה = καὶ ἔσται) durch Verwechslung von ח-ו und ח-ה gelesen חָמַח (cf. Sirach 23.18).

ב-ב:

8.5b: חָמַח, ἔνθεσθε = חָמַח.

11.19: חָמַח, υἱός = חָמַח.

14.17: חָמַח, ὅπλα δὲ αἰσθήσεως = חָמַח.

15.14: גבון, ὀρθή = גבון.

16.17: דרבו, στόματος αὐτοῦ nach Lag. = דרבו.

21.29: גבין, συνίει = גבין.

23.7-8: אכול ושתה יאמר לך ולבו בל עמך פתך אכלת, ἐσθίει καὶ πίνει, μηδὲ πρὸς σέ εἰσαγάγῃς αὐτὸν καὶ φάγῃς τὸ ψωμόν σου μετ' αὐτοῦ, „er isst und trinkt, du wirst ihn aber zu dir nicht führen, dein Brot mit ihm zu essen“ — viell. gelesen: אכול ושתה יאמר, לא תוליכו עמך פתך אכול. In T. ist בל übersetzt נכיל, „hinterhältig,“ ebenfalls כ für ב.

24.12: חבין, γίνωσκε = חבין.

26.10: גשריה דסכלא, σαρκὶ ἀφρόνων, auch T. und S. = גשריה דסכלא (s. w. u. den ganzen Satz). In G. allein ist ferner das zweite ושר übersetzt συντρίβεται = ושר od. ושר (cf. 6.15).

י-י:

6.15: ושר, καὶ συντρίβῃ = ושר.

7.22(23): איל, ὥς ἔλαφος = איל.

10. 3: ורחם, ζώῃ δὲ = ורחם.

21.12: לבוח, καρδίας = לבוח (S. לבחון).

25. 4: קלו, ἅπαν = קלו.

27.16: ימיני, ἐπιδέξιος = ימיני od. ימיני.

27.19: קמו, ὥσπερ = קמו (οὐχ ὅμοια ist frei eingefügt). (Vgl. im rabbin. Schrifttum: b. Berach. 10a ציר-צור und Targ. Jon. zu Exod. 16.6 על הצור = רושם רנלא = על הצור ähnlich in der Mechilta).

י-י:

8.29: דחקו (das zweite Mal im Satze *plene* geschrieben und darum das ו als ו aufgefasst; Beweis für die Genauigkeit der mas. Schreibweise) ἰσχυρὰ ἐποίησεν = דחקו, in diesem Falle eine sehr einleuchtende Lesart, zumal da דחקו auch schon v. 27 vorkommt.



24. 8: יקראו מן מות (vorher בעל לו, ἀπαιδεύτοις, (לבגרים) *συναντᾷ θάνατος* = מן יקרא.

24. 9: ומת, ἀποθνήσκει δὲ = ומת.

30. 9: מ' י' (Tetragramm), *τίς μὲ ὄρᾳ* = יתן (zugl. ח-ה, s. o.).

T. 15.7: יורו מן עין מן צא — יורו דעת

ח-ח:

2.18: ושה, ἔθετο = ושה.

11. 3: ושה ישרים חסד, ἀποθανὼν δίκαιος ἔλιπεν μετὰμελον = חסד ישר ימים נחם (מ für ני), viell. auch חסד ימים; möglich ferner dass ושר doppelt gelesen wurde = ושר.

12.28: ושה, *μνησικάκων* = ושה (s. w. u.).

26.22: ושה, *μαλακοὶ* = ושה חלקים.

28.12: ושה, ἀλίσκονται = ושה.

In T. 13.2 ושה לז = מן ושה לז übers.

ז-ז:

5. 3: ושה, πόρνη = ושה.

6. 7: ושה, *γεωργίου* = ושה (ז-ז kein Schluss).

7. 4: ושה, *περιποιήσει* nach Jäger = ושה (לבינה Accusat.).

21. 6: ושה, διώκει = ושה.

ז-ז:

G.: 24.23: ושה, λέγω wahrsch. für ושה (s. w. u.).

29.21: ושה, ὁδυνηθήσεται, nach Jäger: ושה.

T.: 5.19: ושה — ושה, für ושה.

24.21: ושה — ושה = ושה.

Einige Fälle ז-ז s. w. u. zu 15.4.

# ÜBEREINSTIMMUNG DER LXX MIT TARGUM

(Abweichungen in der Konsonanten-Vorlage oder in der Vokalisierung und Interpretation).

1.19: ושה, *συντελούντων τὰ ἄνομα*, ושה ושה.

1.21: ושה, *ἐπ' ἄκρων δὲ τειχέων*, ושה ושה, (vgl. b.

Berach. 53b. ושה ושה) gelesen; die Auffassung

konnte sich auf 2 Sam. 20.16 stützen, wo die weise Frau von der Mauer herunter ruft.

1.27: קשואה, ἄφρων, בשלי.

2.11: קושה, βουλή καλή, תרעיה (S. זבא, זאבא) vgl. b. Aboda Zara 17b, wo in der Schule Raba's, im 4. Jh., überliefert wird: ומתרנמין עצת חטאין. Raschi bemerkt dazu: עצה sei die Übersetzung, חטאין Erläuterung. Ähnlich 14.17 ואיש מומות T. דאריכא חרעיתיה.

2.17: אלוף נעוריה, als Abstraktum: „Jugenderziehung," διδασκαλίαν νεότητος, T. מרביהא טליוחא, parall. zu בריה.

3.12: יקאב, μαστιγοῖ δέ, züchtigt. Lagarde nimmt mit Cappelus, *Crit. Sacr.*, an, dass der Grieche יקאב gelesen hätte; Toy: יקאב Hif., wie Hiob 5.18. Indessen steht hier G. vielleicht nur unter Einfluss von T.: וקיד אבא וקיד לקריה לך רדי wobei יקאב zwar richtig gelesen ist aber וקיד auf einer Vokalis. יקאב beruht, vgl. Hiob 20.10, wo דלים Subj. ist und יקאב nicht „begütigen" (König) oder „betteln" (Peters), sondern „zerschmettern" (T. ירעען) bedeutet. G. liest aber = MT יקאב, ergänzt [אש], ὃν παραδέχεται, sodass μαστιγοῖ δέ nur von T. inspiriert ohne Aequivalent im Texte dasteht.

3.27: טוב, εὖ ποιεῖν, T. לקעבד שפיר (G + ἐνδεή).

4.14: תאשר, ζηλώσης, „eifern," T. תשן = 3.31 für קנא (ebenso 23.17 und Ps. 37.1; 73.3 טננה).

4.26a = 4.27b in G.: פלס מציגל רנלך, ἀπόστροφον δέ σὸν πόδα ἀπὸ ὁδοῦ κακῆς, T. בישא משיקל רנלך אעבר (erklärt wie מציגל und בישא ist Zusatz).

5.17: אחר, καὶ μηδεὶς ἀλλότριος μετασχέτω σοι, T. (und S.) נוכראה לא נשתתפין עמך.

6. 7: קצין לה חציר, γεωργίου μὴ ὑπάρχοντος, T. חציר, beide lesen קציר (Lagardes Vermutung קטין, nach Buxtorf قاطن „Bewohner," ist sehr unwahrscheinlich).

- 6.27:  $\text{לֹא יִקִּיר, } \sigma\acute{\upsilon} \text{ κατακαύσει,}$  akt. sing.  $\text{לֹא יִקִּיר.}$  Dagegen ist bei  $\text{הַנַּחֲלִים}$  על der Zusatz  $\text{ἐπὶ ἀνθρώπων πυρός} = \text{S.}$   $\text{נִוְרָא דְנִוְרָא}$  nicht in T.
- 6.30:  $\text{לֹא יִבְוֹו, } \sigma\acute{\upsilon} \text{ θαυμάσῃς,}$  nicht zu *verwundern* (Interpretation, da die Verachtung des Diebes nicht negiert werden soll), T.  $\text{לֹא לְמַתְרָרֵי}$  vgl. Luzz. O. G. s. 109.
- 7.22:  $\text{ὥσπερ κύων,}$  T.  $\text{וְהִיד כְּלָבָא} = \text{S.};$   $\text{אַיִל} = \text{אַיִל, } \epsilon\lambda\alpha\phi\omicron\varsigma$  (Anf. v. 23), T.  $\text{וְהִיד אֵילָא.}$
- 8.13:  $\text{μισεῖ,}$   $\text{סָנִיא}$   $\text{שָׁנֵא}$  — so hat wahrscheinlich auch R. Nachman b. Jizchak (im. 3. Jh.) b. Pesach. 113b gelesen:  $\text{מִצֹּחַ לְשִׁנְאוֹ, שֶׁנִּי יֵרָאֵת ה' שִׁנְאוֹתָו רַע.}$  In den Editionen ist im Text  $\text{שִׁנְאִי}$  (das י ist offenbar nur das Abkürzungsstrichlein) eingeklammert und am Rande nach MT  $\text{שִׁנְאֵת}$  korrigiert. Das Richtige dürfte aber die Übereinstimmung mit LXX und T. sein, umso eher als auch Vulg., sicherlich nach der jüd. Tradition des Hieronymus, „*odit malum*” hat.
- 8.23:  $\text{ἐμελλίσσέ με,}$  T.  $\text{אַתְּתִקְנִי}$  =  $\text{נִסְתֵּקְתִּי}$  ist durch die pass. Form näher dem Original. Es scheint hier G. unter *Benützung des Aramäischen* sich von MT noch weiter entfernt zu haben.
- $\text{πορὸ τοῦ τῆν γῆν ποιῆσαι,}$  T.  $\text{וּמִן קֶדֶם דְּתִי הוּי.}$   $\text{בְּקִדְמֵי־אָרֶץ}$  (Philo, *De ebr.*, 30).
- 8.30:  $\text{ἀρμόζουσα}$  fem. dürfte ebenfalls von T.  $\text{קְהִימְנָתָא}$  beeinflusst sein.
10. 2:  $\text{ἀνόμους,}$  T.  $\text{דְּרִישִׁיעָא.}$  G. konnte zum Plural auf Grund des Aramäischen gelangen, indem er  $\text{רִשְׁעִים} = \text{רִשְׁעִי}$  gelesen hat.
10. 4:  $\text{πενία ἄνδρα ταπεινοῖ,}$  stimmt nur teilweise mit T. überein  $\text{מִכְנֻתָא מִכְנָא לְגִבְרָא רַמְיָא}$  indem  $\text{רִישׁ}$  gelesen und als *Subj.* aufgefasst wird (so auch bei Hieron., aber als *Obj.* „*egestatem*”), wozu als *Obj.*,

„ein Mann," *ἄνδρα*, angenommen wird. Während jedoch T. רמיה wie רמה erklärt und bei עשה viell. an Mal. 3.21 denkt, oder כף wie כפוף erklärt, versteht G. unter כף רמיה eine Schwächung der Kraft. (S. = T., aber ohne רמיה).

10. 7: ירקב, *σβέννυται* (wie 13.9), T. נדעך = S. Der MT (auch Hieron. *putrescet*) wird im 3. Jh. durch R. Eleasar, b. Joma 38b bestätigt, רקיבות חעלה בעצמותם.

10.23: כד נחיד, *ἐν γέλωτι ἄφρων πράσσει*, סקלא עביר. Auch hier kann T. vorangegangen sein. indem er כשחוק als Inf. auffasste, G. hat dann כד נחיד frei „im Lachen" übersetzt. Es kann *nicht* angenommen werden, dass er בשחוק gelesen habe, da die Satz-Konstruktion dagegen ist. — ומה, *καὶ* spricht dafür, dass in T. עבירתא richtiger עבירה „Sünde," zu lesen ist; S. *בצדקה* ist nach G.

11.15: רע ירוש פי ערב ור, *πονηρὸς κακοποιεῖ ὅταν συνμίξη δικαίω* beruht natürlich auf der Vokalisation ורע, aber Lag. Auffassung, wonach für ור — וך = *δικαίω* gelesen wurde, ist irrig. Die Übersetzung lehnt sich an die aramäische an: ערב דהוא קטול ובצדיקאן מביאיש מביא מביאיש וביצדיקאן קטול (= ור) Subjekt ist; בצדיקא ist von einem späteren Bearbeiter eingeschaltet, wie im zweiten Satzteil zu בוטח eingefügt wurde באלהא. Dieser Bearbeiter interpretierte den Satz vielleicht wie R. Jizchak, b. Jebamoth 109b mit Beziehung auf *unerwünschte Proselyten*, (רעה אחר רעה חבוא למקבלי גרים). Immerhin stimmt *δικαίω* auffallend mit בצדיקא überein.

11.26: מנע דר יקבהו לאום, *ὁ συνέχων σῖτον ὑπολίπειτο* (א: *ὑπολείπτο*) *αὐτὸν τοῖς ἔθνεσιν*—wird sein Getreide „den Völkern überlassen." Hier liegt eine gemeinsame Fehlerquelle mit T. vor: נשקניה (= יקנהה יעבדה), aber T.

hat weiter *לְכַעֵל דְּכַבּוּי* (לְאִיבִי), G. genauer *ἐθνεσιν* (er muss dabei nicht *לְאִיבִי* gelesen haben, da der Pl. freie wiedergabe sein kann. — Die mas. Lesart ist aus tannaitischer Zeit durch Simon den Frommen, b. Sanh. 91b bezeugt.

- 12.16: *וְעַד, ἐξαγγέλλει, וְעַד = וְיִדְוִי*, ebenso S. — Nicht übereinstimmend ist das von Pinkuss mitgerechnete *וְעַד* für *וְעַד*, da G. *ἀτιμίαν* hat und T. *צַעֲרָה*.

*וְעַד = צַעֲרָה* ist eine wichtige Stütze für die Erklärung des Gaon R. Zemach zu Mischna Sanh. VI (b. 46a) *כְּלִי מְרַשֵּׁי* (s. die zahlreichen Vermutungen bei Kohut, *Aruch* VII, 90). R. Meir will nur sagen, dass die Schechina ganz („in Haupt und Gliedern“) von Mitgefühl für jeden leidenden Menschen erfüllt ist.

- 12.19: *וְעַד-אֲרִיזָה, μάρτυς δὲ ταχύς = וְעַד*, stimmt mit T. überein: *וְעַד מִסְתַּדֵּן מִסְתַּדֵּן* (sowohl in der Vokalisation von *וְעַד* wie in der Interpretation). Die Unabhängigkeit von G. zeigt sich aber darin, dass dieser auch im ersten Satzteil für *וְעַד* *κατορθοῖ μαρτυρίαν* (תְּכֻנֵּן עַד) hat, wo T. richtig *לְעֵלָם* übersetzt; oder man müsste annehmen, dass T. hier revidiert ist. Hieronymus stimmt mit beiden im zweiten *עַד* überein: *testis*. Allen fehlt das Verständnis für die chiasmatische Konstruktion.

- 12.21: *וְעַד, οὐκ ἀρέσει, „gefallen“ וְעַד*, auch T. *לֹא שָׁפִיר* ebenso S.

- 12.25: *וְעַד, φοβερός λόγος, T. מְלֵאכָה דְּחֵלָא*. Eigentümlich ist, dass beide Übersetzer das eine Wort durch zwei wiedergeben, offenbar das folgende *וְעַד* auch auf den ersten Teil beziehend, und *וְעַד* mit „erschrecken“ erklären (*מְדַחֵל, ταρασσει*). Das Wort ist in seiner Konson.-Vorlage von R. Ammi und R. Assi (3. Jh.) b. Sotah 42b bezeugt und verschieden vokalisiert.



- 12.28:  $\delta\delta\omega\iota$   $\delta\epsilon$   $\mu\eta\eta\sigma\iota\kappa\acute{\alpha}\kappa\omega\nu$   $\epsilon\iota\varsigma$   $\theta\acute{\alpha}\nu\alpha\tau\omicron\nu$   
 ebenso wie T.  $\text{אִם לֹא מָנוּ} = \text{וְאִם יִדְעוּהָ לְמוֹתָא}$  (Lag.  
 Vermutung  $\delta\delta\epsilon$  für  $\delta\delta\omega\iota$  ist unwahrscheinlich). נחיה  
 wurde als Antithese zu צדקה aufgefasset (לְתִיבִים?).
- 13.11:  $\mu\epsilon\tau\acute{\alpha}$   $\acute{\alpha}\nu\omicron\mu\iota\alpha\varsigma$   $\acute{\epsilon}\lambda\acute{\alpha}\sigma\sigma\omega\nu$   $\gamma\acute{\iota}\nu\epsilon\tau\alpha\iota$ , T.  $\text{מִן}$   
 $\text{עֲנֵלָא דְמָרְיָה יִנְשֵׁר}$ . Vogel und nach ihm Lag. nehmen an,  
 dass  $\text{מִהַבֵּל}$  in  $\acute{\epsilon}\pi\iota\sigma\pi\omicron\upsilon\delta\alpha\zeta\omicron\mu\acute{\epsilon}\nu\eta$  enthalten sei, u. zw.  
 nach einer Lesart  $\text{מִבְּהַל}$ . Ich glaube eher, dass dies eine  
 freie Ergänzung darstellt und  $\text{הַבֵּל}$  als „Sündhaftes“ und  
 „Ungesetzliches“ wie Jer. 8.19, Ps. 31.7 aufgefasset wurde  
 (ähnlich auch Pseudo-Ibn Esra).
- 13.15:  $\acute{\epsilon}\nu$   $\acute{\alpha}\pi\omega\lambda\epsilon\acute{\iota}\alpha$  „geht unter,“ entspricht T.  
 $\text{וְיִדְעוּהָ}$  und beruht auf (Hörfehler? so wäre die Nicht-  
 beachtung des  $\text{אִם}$  zu verstehen)  $\text{יִתָּם}$ , beeinflusst von Ps. 1.6.
- 13.19:  $\acute{\alpha}\pi\delta$   $\gamma\acute{\nu}\omega\sigma\epsilon\omega\varsigma$  =  $\text{מִדַּע}$ , wie T.  $\text{מִן יִדְעָהָ}$ .
- 13.22:  $\acute{\alpha}\gamma\alpha\theta\omicron\varsigma$   $\alpha\eta\eta\rho$ ,  $\text{וְנִבְרָא טָבָא}$ .
14. 4:  $\phi\acute{\alpha}\tau\tau\alpha\iota$   $\kappa\alpha\theta\alpha\rho\alpha\iota$ , wie T.  $\text{דִּכְנֵן אִמְרֵהָ}$ , Erklärung  
 und Pluralform übereinstimmend.
- 14.12 (vgl. 16.25):  $\acute{\alpha}\delta\delta\omicron\varsigma$   $\eta$   $\delta\omicron\kappa\epsilon\acute{\iota}$   $\pi\alpha\rho\acute{\alpha}$   $\acute{\alpha}\nu\theta\rho\acute{\omega}\pi\omicron\iota\varsigma$   $\acute{\omicron}\rho\theta\eta$   
 $\acute{\epsilon}\iota\lambda\alpha\iota$ , T.  $\text{אִמְרֵהָ דְסִבְרִין בְּנִינְשָׁא דְתַרְיָצָא}$ .
- 14.28:  $\delta\upsilon\nu\acute{\alpha}\sigma\tau\omicron\upsilon$  =  $\text{רִוּוֹן}$ , T.  $\text{פְּרִנְסִיָּה}$ .
- 14.30:  $\text{דִּמְפְּלָא חֲמָתָא דְלִבְיָה אָסְנָא הוּא דְבִסְרִיָּה}$ , T.  $\text{מִי בְּשָׂרִים לֵב מְרַפָּא}$  —  
 das ist so zu verstehen, wie auch Raschi die Erklärung  
 bietet:  $\text{לֵב (בֶּשֶׂר) שֶׁהוּא רֹפֵא אֶת הָרֵעָה וְעוֹבֵר עַל מִדּוֹתָיו הוּא}$   
 $\text{חִי בְרִיתוֹיו שֶׁל הַקֶּבֶה שֶׁהֵן בֶּשֶׂר וְדָם}$ , also  $\text{מְרַפָּא לֵב}$  als Sub-  
 jekt: „ein sanftes, geduldiges Herz erhält den Leib  
 gesund,“ was ganz gut zum zweiten Satzteil  
 $\text{וְרַקֵּב עֲצָמוֹת קִנָּה}$  passt. Auf dieser aramäischen Übersetzung  
 beruht offenbar G.:  $\pi\rho\acute{\alpha}\upsilon\theta\upsilon\mu\omicron\varsigma$   $\acute{\alpha}\nu\eta\rho$   $\kappa\alpha\rho\delta\acute{\iota}\alpha\varsigma$   $\iota\alpha\tau\rho\acute{\omicron}\varsigma$ ;  
 er hat den Sinn richtig übernommen, aber bei Verglei-  
 chung mit dem hebr. Original die Konstruktion missver-  
 standen und  $\text{לֵב (καρδίας)}$  statt des Leibes als Gegen-



- 15.18: וְשָׁקִיט, κατασβέσει, מְדַעַךְ (שְׁקִיעַ?).
- 15.20: וּבְרָא סִבְלָא, υἱὸς δὲ ἄφρων, וּבְרָא סִבְלָא.
- 15.28: לְעֵנוֹת, πίστιν, wie T. בְּהִימְנוּתָא, wohl von עֵנוֹת.
- 16.11: מִתְקַלִּי דְקוּשָׁא, στάθμα δίκαια, T. מִתְקַלִּי דְקוּשָׁא.
- 16.25: וְדָרֵךְ יֶשֶׁר (ähnlich 14.12), ὁδοὶ δοκοῦσαι εἶναι ὁρθαί = אֲרָחָא דְמַחְזוּיָא... דְּתַרְיָא.
- 17.12: פֶּגַשׁ דֵּב שְׂבוּל בְּאִישׁ scheint in G. ἀνδρὶ νοήμονι eine mit T. בְּוִבְרָא חֲבִימָא gemeinsame Fehlerquelle zu haben. Indessen hat T. פֶּגַע דֵּב während in G. ἐμπεσεῖται μέριμνα rätselhaft ist. Jäger rät: פֶּגַשׁ דְּאִישׁ שְׂבָל: vielleicht ist aber in den (nicht abgeteilten) Worten פֶּגַשׁ דְּבִשְׂבָל das ש in bekannter Weise doppelt gelesen worden: פֶּגַשׁ שֶׁר בְּשְׂבָל אִישׁ und פֶּגַשׁ אִישׁ als der vernünftige Mann wie bei T. erklärt worden.
18. 5: לְהַטּוֹת, οὐδὲ ἐκκλίνειν, T. לֹא לְמַצְלָא—aber τὸ δίκαιον (קֶצֶף) ἐν κρίσει entspricht nicht dem targumischen דִּינָא לְצִדִּיקָא.
18. 6: בָּאוּ, ἄγουσιν αὐτόν, „führen ihn“, wie T. מִיָּתוֹן לִיה (statt להרתא ist zu lesen להרתא, nach Raschi, Pardes 172 = הרת עולם, “Streit“, vgl. Kohut, Aruch III, 245).
19. 6: וְחָלוּ, θεραπεύουσιν, T. דְּקַשְׁשִׁין; ferner ist וְכָל הָרַע (gelesen (הָרַע) πᾶς δὲ ὁ κακὸς γίνεται ähnlich T., wenn dies auch den Satz anders interpretiert: וְכָל בִּישׁוֹן „bösen Menschen Geschenke machen.“
19. 7: הָקָה לֹא הָקָה, ὅς δὲ ἐρεθίζει λόγοις οὐ σωθήσεται, T. שְׂרִיר לֹא שְׂרִיר (26.28 מְדַחָא, T. מְרַנְנָא). Es scheint, dass auch hier das Aramäische לֹא שְׂרִיר „nicht festbleibend“ als eine Übersetzung für הָקָה לֹא vorangegangen, G. hat erst daraus das nach dem Hebr. ganz fernliegende „nicht gerettet werden“ gemacht.
- 19.14: אִשָּׁה מְשָׁבְלָה, ἀρμόζεται γυνή ἀνδρὶ (viell. gelesen מְשָׁבְלָה von Gott wird eine Frau angepasst dem Mann, vgl.

Gen. 48.14 שָׁבַל) das Wort bed. in Gr. auch „sich verloben,” ähnlich T. מתמכרא אחתא לנברא, vgl. Luzz., O. G., 115.

19.19: גָּרַל חָמָה (Kere; Ketib (גרל), *κακόφρων ἀνὴρ*. Lag. meint, G. habe גר gelesen; in solchem Falle stimmt er mit T. גר überein. Aber ἀνὴρ kann auch freie Einschaltung sein, wie 19.23.

19.26: מְשַׁדֵּד, *ἀτιμάζων*, T. דביו, viell. hier ursprünglich דביו und von G. verstanden als „Schande bringend.” Eine andere Möglichkeit wäre die Annahme eines Hörfehlers, שטט „verachten.”

20.4 : עָצַל, *ὀνειδίζόμενος ὀκνηρός* = מְחַרֵּף, T. מְחַסֵּד עָצַל, jedoch לא שתיק (לא יקריש), ohne dass es einen Sinn giebt, während G. *οὐκ αἰσχύνεται* (= לא יבוש) von der Vorlage abweicht.

20.14: רַע וְלֹרַע... וְאִי (= S) חֲבָרָא לְחֻבְרִיָּה... וְהִידִן, T. רַע רַע - וְאִי (fehlt in G.).

20.25: וּבִתְרֵי חֲבִי חֲנִיָּא (תְּרִיָּא) לִיה נִפְשִׁיה, T. וְאַתְרֵי גִדְרִים לְבִקֵּר, zu lesen תְּרִיָּא (Luzz., O. G.) „bereut er” = G. *μετανοεῖν γίνεταί*.

20.30: וְחֻמְרִיק בְּרַע (das ח wurde wahrscheinlich als Plur. zum vorhergehenden פָּצַע hinaufbezogen: *συντριμματα*), G. *συναντᾶ κακοῖς* = T. פְּנְעֵי בְּבִישָׁא, gelesen, mit Versetzung der Konsonanten, מְקַרְהֵי קְרִימֵי.

21. 4: וְרֵשָׁעִים, T. וְשָׂרָא (גר 24.20), *λαμπτήρ δὲ ἀσεβῶν* (wie 24.20), T. וְשָׂרָא דְרֵשִׁיעִי.

21.13: וְנִשְׁמַע לְצִוְתָּהּ, T. *τοῦ μὴ ὑπακοῦσαι*, מוֹעֲקָה.

22. 1: וְשָׂמָא טְבָא, T. *ὄνομα καλόν*, שָׂם, dem Sinne nach.

22.11: אֹהֵב טְהוֹר לֵב, T. *ἀγαπᾶ Κύριος ὁσίας καρδίας*, „es liebt Gott die reinen Herzen,” ebenso T. רַחֵם אֶלֶּהָ רַבִּי לֵבָא, sowohl in der Beziehung auf Gott wie in der Mehrzahl. G. weicht jedoch im zweiten Hemistich ab und übersetzt





- so mochte der Satz zu stande kommen  $\text{אף הלין לחכימי}$   
 $\text{אמרנא}$ . G. hat  $\text{אלה}$  ( $\text{ταυτα δε}$ ) und  $\text{הבר}$  doppel gelesen.
25. 1: Gemeinsam ist G. und T. ein im MT nicht enthaltenes Epitheton zu  $\text{אלה משה}$ , das aber bei G.  $\text{αἰ αδιάκριτοι}$  „die unentschiedenen“ (Deutung von  $\text{אלה}$  oder von  $\text{העתיקו}$  — welches wie bei T. einfach „niedergeschrieben,“  $\text{ἔξεγράψαντο}$ , דכתבו übersetzt ist) bei T.  $\text{עמיק}$  „die schwierigen“ lautet. Vgl. Ab. d. R. N. I die Erklärung des Wortes:  $\text{אלא שהעמיקו אלא שהמתינו}$ , es bedeute: „sie haben mit *Überlegung* und *Sorgfalt* geschrieben.“ Die Schwierigkeit der Übersetzung von  $\text{קתיף}$  für die LXX ist ersichtlich 1 Chr. 4.22, wo  $\text{הנבי}$   $\text{קתיף}$  wiedergegeben ist:  $\text{καὶ ἀπέστρεψεν}$  (ושיבו להם)  $\text{Ἄβεδερην Ἀθουκιῖμ}$ .
- 25.19:  $\text{רעה}$ , G.  $\text{κακοῦ}$ , Gen., T.  $\text{בישי}$  als Adj. zum Zahn, aber übereinstimmend  $\text{רעה}$  gelesn.
- 25.20: Eingefügt:  $\text{ὥσπερ σῆς ἐν ἱματίῳ καὶ σκώληξ ξύλῳ οὕτως λύπη ἀνδρὸς βλάπτει καρδίαν}$ , ähnlich T.  $\text{ביבא}$   $\text{בלב}$   $\text{היה}$   $\text{בסר}$   $\text{למנ}$   $\text{והיה}$   $\text{מלטיח}$   $\text{בקיס}$ .
- 25.26:  $\text{מקור}$   $\text{מקור}$   $\text{מקור}$   $\text{מקור}$ ,  $\text{ὥσπερ εἰ τις πηγὴν φράσσει καὶ ὕδατος ἔξαδον λυμαίνουτο}$ , „wie wenn einer eine Quelle vermauert und den Ausgang des Wassers beschmutzt,“ ähnlich T.  $\text{אנש}$   $\text{מגנא}$   $\text{ומבנא}$   $\text{היה}$   $\text{דבר}$   $\text{מקור}$ . Das erste Verbum kann frei nach dem angenommenen Sinne ergänzt sein, oder die Vorlage hatte für  $\text{נרפש}$  etwa  $\text{נרפש}$  od.  $\text{נרפש}$  (wenn nicht die Lautähnlichkeit, wie so oft bei LXX, von  $\text{רפש}$  zum griechischen  $\text{φράσσω}$  geführt hat). Das zweite Verbum setzt die Vokalisation  $\text{מקור}$  voraus; die Quelle ist Objekt.
26. 3:  $\text{קנה}$ ,  $\text{κέντρον}$  „Stachelknute,“ ebenso *nur hier* T.  $\text{מנבא}$  (sonst Ps. 32.9  $\text{ומנא}$ , Jes. 37.29 = 2 K. 19.28,  $\text{ומנא}$ ).
26. 5:  $\text{קסיל}$   $\text{ענה}$  als ausdrückliche Antithese zu v. 4 mit „jedoch“

eingeleitet: ἀλλὰ ἀποκρίνου, ebenso T. מלל אף (Vgl. b. Schabbath 30b, wo der Gegensatz hervorgehoben wird). T. hat jedoch für תלזחל noch die Abweichung תהמזחל, dagegen G. = MT.

26.10: רב מחלל כל ושבר כסיל ושבר עברים, ein Satz, der noch heute den Exegeten die grösste Schwierigkeit bereitet und von dem man begreifen kann, dass die alten Übersetzer ihn durch Annahme anderer Lesarten zu deuten suchten. G.: πολλὰ χειμάζεται πᾶσα σὰρξ ἀφρόνων, συντρίβεται γὰρ ἡ ἔκσταίς αὐτῶν, „Stark vom Sturm herumgetrieben wird der Leib der Unverständigen, denn scheitern muss ihre Überspanntheit,“ also: מחלל כל בשר כסיל ושבר עברות. Im ersten Teil ähnlich versteht T. den Satz סני קיש בשא דסקלא (ebenso S.), im zweiten Teil aber anders, jedoch auch abweichend vom MT. ונשבור עובר ים = וננא עבר ים. Lag. vermutet in χειμάζεται נחשול, aber dann würde ein Verbum fehlen, dagegen ist מחלל für „Leiden erdulnd“ aus Jes. 53.5 bekannt. Beispiele für Verwechs. n=m (עברם-עברת) bei G., s. für Pentateuch Fischer, S. 62 (Gen. 17.23 בעצם-בעת?, Ex. 25.38 ותחתייה), für m-n ib. S. 76 (Gen. 49.25 γῆς ἐχούσης πάντα dürfte jedoch nur freie Übertragung sein, ähnlich Onkelos מלרע ארעא ממעמקי ארעא sodass nicht מקום für חום gelesen wurde).

26.26: תבס, ὁ κρύπτων = T. דבס.

26.28: ושא דכיו, μισεῖ ἀλήθειαν, „hasst die Wahrheit,“ übereinstimmend mit T. ושא דכיו. Es scheint hier in T. ursprünglich nur דכיו für דכיו gelesen worden zu sein, und die Wege werden wie Ps. 25.8 als die der Wahrheit erklärt, darauf beruhend wäre das gr. ἀλήθειαν zu verstehen. Wollte man annehmen, dass

G. ג'וי געלעזן האט, so würde ausser der Verwechslung ו-ד noch eine freie Übersetzung vorliegen.

27.16: רוקא גרבייטא קשניא ובשקא צפניא צפן רוח ושמן ימינו יקרא *βορέας σκληρός άνεμος, δυνάμει δέ επιδέξιος καλεΐται* stimmt ganz mit der Interpretation in T. überein: רוקא גרבייטא קשניא ובשקא דימיניא מתקריא שם ימיני וצפוניא, erklären צפן „hart, rauh.“ Über „Nord“ („Nord“ (gegen Methurgeman) s. S. D. Luzzato, *O. G.*

27.19: ויהי מן הנהיר פרוצפי דלא דמין קר *ὥσπερ οὐχ ὅμοια πρόσωπα προσώποις* entspricht dem T. ויהי מן הנהיר פרוצפי דלא דמין קר wobei wahrscheinlich כמים = כמו gelesen wurde und in T. ein späterer Bearbeiter nach dem Hebräischen auch die Übersetzung „wie Wasser“ angefügt hat; „nicht ähnlich“ ist eine Interpretation.

27.21: דמשבחנו ת. מהלליו *ἐγκωμιαζόντων αὐτόν*, ג'וי מהללו: דמשבחנו.

27.22: בנו סיעתא *μέσῳ συνεδρίῳ ἀτιμάζων*, T. ג'וי סיעתא. Für das Synhedrion ist ג'וי = ארדא bildlich bekannt (Mischna Sanh. IV,3; schon in alter Zeit für die Ratssitzung 1 K. 22.10). In T. ist wohl ג'וי wie ג'וי als *Ratsversammlung* gedeutet, vgl. Mischna Schabb. I, 4 חוקיה בן חנויה עליה חנויה und b. Sanh. 11a השכימו לי שבעה לעליה. Die Übersetzung בנו סיעתא ist viell. בננו. Die Auffassung von G. und T. ist identisch, beide verstehen das witzige Bild nicht und sind von der Gelehrtensprache beeinflusst (Vgl. auch LXX zu Ps. 66.5 עליה, βουλή!). G. mag aber die „Ratsversammlung“ auf הרפות bezogen und בעליו = בחל *ἀτιμάζων* selbständig hinzugefügt haben, Jäger u. Lag. vermuten für dieses Wort חרפות (für *συνεδρίῳ* haben sie keine Erklärung), aber dann müsste es voranstellen.

27.24: ג'וי, *παράδιδωσκον*, T. שלם (S. מלכא).

28. 3: קח ספר ספר ואתן קח, *ύετος λάβρος καὶ ἀνωφελής*, T. קח  
 ואתן קח. *קח ספר ואתן קח*.
28. 4: קח ספר ואתן קח, *ἐγκωμιάζουσιν ἀσέβειαν*, T. קח ספר ואתן קח,  
 übereinstimmend im Lesen קח, aber verschieden in der  
 Auffassung von קח, das T. als „sich rühmen“  
 versteht. Ganz abweichend hat G. für קח (gelesen  
 קח) *περιβάλλουσιν ἑαυτοῖς τεῖχος*.
29. 4: ואתן קח, *ἀνὴρ δὲ παράνομος* = קח ואתן, beide lesen  
 viell. קח (Vulg.: avarus) aber die überlieferte Vo-  
 kalisation ist im Talmud durch einen Amoräer im  
 3. Jh. bezeugt, b. Kethub. 105b קח דומה לכהן שמחור על  
 הגרונ.
- 29.21: קח — „wird ein Knecht sein,“ *οἰκέτης ἔσται*, T. קח  
 קח. Unsicher ist für קח T. קח, G. *ὀδυνηθήσεται*  
 (wofür Dathe an קח, Jäger an קח denkt).
- 30.31: קח ואתן, *ἀλέκτωρ ἐμπεριπατῶν θηλείαις* „Hahn spa-  
 zierend zwischen Hennen“ = T. קח ואתן קח ואתן  
 (möglicherweise gelesen קח?) Vulg. *gallus succinctus lumbos*.
- קח ואתן, *βασιλεὺς δημηγορῶν ἐν ἔθνει*, ge-  
 lesen: קח; T. קח ואתן קח ואתן hat offen-  
 bar ausserdem קח wie קח gedeutet, קח ein-  
 gefügt. G. hat beide Worte in *δημηγορῶν* zusam-  
 mengefasst, öffentlich redend.
31. 6: קח, *τοῖς ἐν λύπαις*, T. קח.
31. 8: קח, *λόγω θεοῦ* (Lag. *μογιλάλω* — unwahrscheinlich;  
 es kommt allerdings Jes. 35.6 aber *nicht* Jes. 56.10,  
 Ex. 4.11, Ps. 38.14, Hab. 2.18 vor). Da T. קח = קח  
 hat, dürfte auch G. קח vor sich gehabt und קח  
 gelesen haben.<sup>13</sup>

<sup>13</sup> Aehnlich hat in IV Esra 7.48 קח, gelesen קח, zu der Übersetzung  
*ab his* geführt, vgl. Kaminka, Beiträge zur Erklärung der Esra-Apokalypse,  
 MGWJ, 1932.





## THE SHOFAR

SOL B. FINESINGER, Hebrew Union College, Cincinnati, Ohio

FROM very early times down to the present the shofar has played a prominent role in the ritual and folk-life of the Jewish people. Even to-day its use is still an important part of the Rosh Hashana and the Yom Kippur service. Yet, in spite of its widespread use, its purpose and function are nowhere clearly stated in the laws prescribing its use. Consequently it is not surprising to find that many theories have been advanced to explain why it is used. These theories vary with the point of view of their proponents, being mystic with mystics, rationalistic with rationalists, enlightened with the enlightened. A consideration of the various uses of the shofar, of what underlies these uses, and of the tendencies involved in the theories that have been advanced to explain its use is the task of this essay. Details, such as the types of blasts blown and the number and arrangement of the blasts, will not concern us.

The sound of the shofar, like any other sound, is produced primarily for its effect upon its hearers. It may either attract them to those producing it, or it may frighten and repel them. To decide which of these two uses is the more original would be to settle the problem of whether the hearers supposed to be effected by its sound were considered hostile or friendly. If the general tone of primitive peoples is to be taken as typical, there is no doubt that the world and the powers ruling it were, to the mind of primitive Semites too, unfriendly and hostile. And if we consider the notions associated with the shofar throughout its history we are led to believe that it was originally used to repel hostile forces.<sup>1</sup>

But even with the advent of an advanced theology and a

<sup>1</sup> For a treatment of the shofar from the standpoint of the psycho-analyst ■■■ Reik, *Das Ritual* (1928), Imago-Bücher xi, the section entitled *Das Schofar*, pp. 201-330.

God who may be both friendly and hostile, depending upon man's relation to Him, we find that the original notions are not given up. Rather do we have two viewpoints. Concretely, as applied to the shofar, these viewpoints are that it is used to attract the attention of God so that He will listen to the entreaties of His worshippers and deal kindly with them, and on the other hand that it is used to frighten and repel evil powers, however they may be conceived. Nor is the strength of these viewpoints always the same. Their relative strength is determined by the equilibrium of the forces of enlightenment and superstition—or, put otherwise, by the relative power of the more advanced, enlightened mind and of the more primitive, popular mind. And “mind” here does not rule out the possibility of one person's having more than one mind. Thus, a person can think that the sound of the shofar is effective not only in reminding God to be gracious and kind, but also in scaring off Satan (see p. 219). Or both concepts may be blended into the idea that the entreaty to God is more effective by virtue of the evil powers' having been driven away.

In tracing these two notions we shall find that there is a struggle between them. As time goes on we find that the Rabbis, in the main, cherish the one notion, and the people at large the other. Sometimes, because of the greater strength of the Rabbis, who generally represent the more enlightened tendencies, the thinking of the group is kept very well in the background, and even suppressed. But on the other hand the thinking of the group may be so strong that the Rabbis have to make concessions to it, and are unable to maintain their views in the purity which they would desire. Or often the enlightened view is so far above the comprehension of the group that it is useless to try to make the people get it. Again, not all of the Rabbis are equally enlightened. A rationalist like Maimonides can be trusted to make no concessions to the opinions of the masses, regardless of what might be the practical advantages. A Rabbi with mysticism in his makeup, like Recanati, would be expected to be more lenient towards the beliefs of the group. Sometimes the degree to which the group practice and frame of mind are tolerated depends upon the relative harmlessness or danger of their practice and belief. The

Rabbis realize that, since it is desirable that life be lived as smoothly as possible, it is often simpler to tolerate a little superstition; but when it gets really crass and rampant, they are inclined to go to the limit in fighting and suppressing it. However, the most common state of affairs is one in which both forces have equal or about equal power.

Our study will be limited to the shofar as it appears in Biblical and Talmudic times. Accordingly, we shall first consider the various uses of the shofar that we find in the Bible.<sup>2</sup>

The shofar appears in several instances at the occasion of the inauguration of a king. In 2 S. 15.10 the people are instructed to declare that Absalom is king when they hear the shofar. In 1 K. 1.34, 39 it appears at the anointing of Solomon as king. In 1 K. 1.41ff. the context shows that when the sound of the shofar is heard, it is known that Solomon has been made king. In 2 K. 9.13 it is used when Jehu is made king. In these instances its sound seems to be used merely to announce the event, or perhaps to indicate the joy prevalent at the occasion.<sup>3</sup>

Ps. 47.6 reads: *עלה אלהים בתרועה יהוה בקול שופר*. Though we cannot determine with certainty the occasion of the psalm, the context clearly portrays the kingship of God. In view of this and of the functions associated with His kingship—His subduing the nations, His sitting on the throne judging them as they are assembled around Him—it is likely that we have here a new year's psalm.<sup>4</sup> *עלה* most likely refers to God's ascending the throne in

<sup>2</sup> Bible throughout this article means the old testament. The abbreviations of the books of the Bible are obvious. References to the Mishna are given by an abbreviation of the name of the tractate, followed by a Roman numeral to indicate the chapter, and an Arabic numeral to indicate the mishna; thus RH. iv, 2 = Mishna Rosh Hashana, chapter iv, mishna 2; RH. 26a = Babylonian Talmud, tractate Rosh Hashana, folio 26a; p. RH. iii, 1, 59d = Palestinian Talmud, tractate Rosh Hashana, chapter iii, halakah 1, fol. 59d of the Krotschschin edition.

<sup>3</sup> However it is a common belief that on joyous occasions evil spirits are present in great numbers, because they are envious. Perhaps the sound of the shofar frightens them away.

<sup>4</sup> *יום הדין* has become a common name for the new year's day. With this psalm cf. Is. 6.1ff. The psalm is now part of the Rosh Hashana liturgy, being recited seven times before the shofar is blown after the reading of the Torah. But this does not prove that it is an original new year's psalm. Its appearance

order to judge (see p. 215). The sound of the shofar is probably intended to drive off Satan, or the accuser, and thus insure a favorable verdict (see p. 216).<sup>5</sup> The functions that God is represented as performing in the psalm too closely resemble those that Marduk performs on the Babylonian new year's day to make the resemblances just coincidental.<sup>6</sup> Since Marduk is a solar deity, and since this psalm seems to go back, at least in some of its ideas, to a Babylonian prototype, we may have, in the notion that God is king and that He judges and subdues the nations, a sublimation of the original struggle between the sun rising on the new year's day and the forces that hinder it—especially since the new year's day is originally the day of the fall equinox (see p. 200). What may be at the bottom of verse 6 is the belief that the sound of the shofar—and other noises—frightens these forces that tend to hinder the sun (see p. 201). In other words, the sun is enabled to come up by virtue of the noise and the sound of the shofar.<sup>7</sup> It may be that the same belief underlies Ps. 98.6, *בחצצרות וקול שופר הריעו לפני המלך יהוה*.<sup>8</sup>

in its present place in the liturgy may be due merely to the mention of the shofar in verse 6.

<sup>5</sup> Cf. Zach. 3, especially verses 1–2. This chapter of Zachariah depicts a scene which seems to have taken place on the day of the new year.

<sup>6</sup> See M. Jastrow, *Die Religion Babyloniens und Assyriens*, vol. i, Giessen 1905, pp. 407, 419, 457, 463, 503; and his *Religion of Babylonia and Assyria*, Boston, 1898, pp. 680–681. It is true that the Babylonian new year's day, the *Zag-muku* (= *rêsh shatti* = ראש השנה) was celebrated in Nisan, the first month, (Jastrow, English edition, p. 678), while the Hebrew was celebrated in the seventh month. But Jastrow, *l. c.*, raises the question whether at an earlier time and in some places the *Zagmuku* may not have been held in the 7th month. Marduk is a solar deity (Jastrow, *op. cit.*, p. 30) and therefore his year, when he began his reign anew, could just as appropriately begin in the 7th month, the time of the fall equinox, as in the 1st month, the time of the spring equinox. But even if the Babylonian and Hebrew new year's days came at different times, it is none the less true that the Hebrews applied a lot of the Babylonian ideology to their own new year's day.

<sup>7</sup> Perhaps *yle* refers to the sun's, or in the later belief God the King's, walking up the temple steps. Note the use of the horns at the temple steps upon the occasion of the *שמחת בית השואבה* (see note 21).

<sup>8</sup> Mowinckel, *Psalmstudien*, part vi, pp. 30–31 and note 1 on p. 30, includes Ps. 47 and Ps. 98 under the "Thronbesteigung" or ascension psalms, to be used in connection with the new year's festival in Tishri. His arguments

In most instances, however, the shofar is connected with some phase of war or fighting (see p. 208). In 2 S. 18.16; 20.22 the sound of the shofar is a signal to stop the fight. In Jud. 3.27; 6.34 its sound summons the people to come to fight. In 2 S. 20.1 Sheba ben Bichri sounds it to rally the people around himself, away from David's army. In 1 S. 13.3 it serves the purpose of signaling the people to come and fight for Saul (see verse 4), while it also serves to announce Jonathan's victory. In Jer. 51.27 its sound is to rally the nations to fight against the enemy, presumably Babylonia. In Neh. 4.12 the shofar is present at the rebuilding of the wall of Jerusalem; verse 14 states that the people are to assemble when they hear its sound, and that God will fight for them (see p. 208). In Zach. 9.14 God appears in the role of a warrior, carrying the shofar. Job 39.24-25 shows clearly that the shofar is associated with war. In Jer. 42.14 not to hear the sound of the shofar is synonymous with the absence of war. In Jer. 4.5, 21; 6.1 the shofar warns the people of the impending war. In Jer. 4.19 the people are represented as having heard the warning that war is impending, and being terrified. Jer. 6.17 takes it for granted that the people should have been warned of the danger of war when they heard the shofar. In the simile in Ez. 33.3-6 it is considered inevitable that the sound of the shofar should be a warning that war is at hand.

In Hos. 5.8 the shofar warns the people that danger is near; in Hos. 8.1 it warns them that harm is coming because of their sins. In Joel 2.1, 15 it warns the people of the danger of the impending Day of Yahweh. In Zach. 1.16 one of the epithets of the Day of Yahweh is "a day of shofar." Am. 3.6 takes it for granted that people are terrified when they hear the shofar. In Am. 2.2 the sound of the shofar appears in the description of Moab's distress and destruction. And it may be that the sound of the shofar at Sinai (Ex. 19.16, 19; 20.8) is a warning to the people to keep away from the mountain.<sup>9</sup>

So far, then, with the exception of its use at the coronation of

are given in part ii of this series of *Psalmestudien*, pp. 1-209, but I have been unable to consult this part.

■ One cannot help feeling that there is much more involved in the use of the shofar at Sinai than merely this. But just what it is I cannot guess.



a king and as a mere signal in war, the majority of instances shows that the sound of the shofar frightens its hearers.

At the downfall of the walls of Jericho (cf. Jos. 6.4, 5, 6, 8, 9, 13, 16, 20) the shofar plays a very important role, but just what it is is hard to determine. Evidently there is some connection between the sound of the shofar and the other noises, and the falling of the walls. It is possible that the shofar was supposed to have the power to drive away the spirits who guarded the city. The frequent use of the number seven in the whole narrative might also point to some such belief. The demons and spirits are supposed to be afraid of the number seven.<sup>10</sup>

The shofar is also very much in evidence in the story of Gideon's attack upon the Midianite camp (cf. Jud. 7.16, 18, 19, 20, 22). Here too it is difficult to determine the purpose of its use. Perhaps the noise of the shofars, the breaking of the pitchers, and the shining of the lights are intended to give the enemy the impression that a large army is attacking it. On the other hand the shofar and noise and light may be the means of frightening away the spirits or deities who protected the Midianite camp.<sup>11</sup>

The shofar appears in the procession that accompanies the ark when David brings it back to Jerusalem (cf. 2 S. 6.15 and the parallel 1 Ch. 15.28). Its use here is probably to make noise upon the joyous occasion (see p. 195).<sup>12</sup> In Ps. 150.3 the shofar is one of the instruments used in the praise of God.

Ps. 81.4 reads חקעו בחדש שופר בכסה ליום חגינו. Here it is difficult to determine the time when the shofar is used. If חדש means new moon, as is likely, we may have an indication that the shofar was used when the day of the new moon was celebrated (see

<sup>10</sup> This obscure matter requires deeper study and treatment than I have given it. The brief discussion and the suggestions made are offered with a great deal of hesitation. See Gressmann, *Musik und Musikinstrumente im Alten Testament*, Giessen, 1903, pp. 7-8.

<sup>11</sup> The purpose of the music in 1 S. 18.10 seems pretty clearly to be to drive the evil spirit, רוח אלהים רעה, away from Saul. But contrast Gressmann, *op. cit.*, pp. 18-19, who rejects this.

<sup>12</sup> Dr. Morgenstern suggests that this occasion was the new year's day, for it is hardly likely that David would have done such a thing on any ordinary day. Furthermore 2 S. 6.19 states that David distributed raisin-cakes, אשישה, to the people; and eating these cakes is an old new year's rite.

p. 208 and p. 222). But perhaps חַדָּשׁ does not mean new moon, but merely month, the month in which the חַג and כֶּסֶה appear. The meaning of כֶּסֶה is not known. It may mean full moon (see Gesenius-Buhl<sup>17</sup> s. v.). Then we would have a reference to the use of the shofar on a חַג that occurs at the time of the full moon. It might be either Passover or Sukkot. But we know of no use of the shofar on either of these festivals. However we do know that the חַג which later became Sukkot originally preceded the new year's day, the 10th.<sup>13</sup> Hence the reference to the use of the shofar on the חַג. When the חַג was transferred to the 15th, the new moon, of the 7th month, the use of the shofar may also have been transferred; or perhaps the memory of its use on this original חַג still lingered on. However, this is all very uncertain.<sup>14</sup>

Thus far, we can make the following generalizations about the shofar: Almost without exception the passages in which it occurs belong to the earlier, rather than to the later strata of the Bible.<sup>15</sup> It is an instrument used by, and associated with the life of, the people.<sup>16</sup> It generally has the effect of frightening its hearers; in some instances it seems to be used to frighten away evil spirits or powers.

But none of the uses that we have so far considered can be positively connected with the two days on which the shofar definitely appears later on in the ritual—the 1st of the 7th month in post-Biblical times and the 10th of the same month in post-

<sup>13</sup> See note 23 and cf. Morgenstern, *Two Ancient Agricultural Festivals*, *JQR*, new series, viii, pp. 46, 48ff. And the use of the shofar was one of the practices of the new year's day. See p. 211.

<sup>14</sup> The Rabbis use this verse to prove that the shofar is to be blown on the 1st of the 7th month, Tishri. See p. 214. Mowinkel, *Psalmestudien*, part vi, p. 35, note 7, considers it a fall-festival or new year's psalm. His arguments are given in part ii, 1 of his work, which I have not seen.

<sup>15</sup> That is, before H and P. The exceptions are perhaps Ps. 47.6; possibly Zeph. 1.16 and Zach. 9.14; most likely Ps. 98.6 and 150.3; 1 Ch. 15.28 which however is the parallel of 2 S. 6.15; and 2 Ch. 15.14.

<sup>16</sup> The exceptions are Ps. 150.3; 2 Ch. 15.14; in 1 Ch. 15.28, which is priestly, and where it is coupled with the *hazōzera* it was undoubtedly copied from the parallel in 2 S. 6.15; while its use in Ps. 47.6 and 98.6 where it is again coupled with the *hazōzera* may rest on elements connected with the old solar religion. See p. 196.

Talmudic times.<sup>17</sup> One passage in the priestly legislation, Lev. 25.9 associates the use of the shofar with the 10th of the 7th month. But before we consider this passage we shall have to discuss the relation of the 10th to the 1st, which in later times is the day par excellence for the use of the shofar.

It is clear now, especially after the elaborate and thorough researches of Morgenstern,<sup>18</sup> that originally the Hebrew new year's day was on the 10th, the day of the fall equinox. Later on the date of the beginning of the new year was transferred to the 1st, and the 10th subsequently was celebrated as יום הכפורים. Naturally this transfer would effect the ceremonies and observances connected with the original day of the celebration. These ceremonies could be dealt with in one of several ways. If they were objectionable, the legislators would attempt to suppress them. If they were not objectionable, or if they could not be suppressed, they either had to remain on the original day or they were transferred to the day to which the new year's celebration was transferred, the 1st. However, it must be borne in mind that no change or suppression is likely to be made at one stroke.

Thus there can be little doubt that many of the original ceremonies of the new year's day were, in the course of time, completely suppressed or ignored by the official legislators. Just what they might have been, though, we cannot tell. For instance, the silence of the Talmud about the shofar on the 10th, יום הכפורים, and its subsequent reappearance on that day would show that for a long time the use of the ceremony on this date was officially suppressed or ignored. The sending off of the Azazel goat and the entry of the high priest into the holy of holies were left where they were originally. It is possible that there were even attempts made to do away with these two ceremonies too, particularly with the former. But if there were, they were unsuccessful, and these remain part of the official ritual for the day (cf. Lev. 16). The shofar appears in Lev. 25.9 in connection with the 10th,

<sup>17</sup> When I use the 1st and the 10th, I mean the first and the tenth of the seventh month, unless otherwise specified.

<sup>18</sup> The Three Calendars of Ancient Israel, *HUCA*, vol. i, pp. 13-78; the additional notes to this article in the *HUCA*, vol. iii, pp. 77-107; The Gates of Righteousness, *HUCA*, vol. vi, especially pp. 18-19, 32, 35, 37.

the original new year's day; its later use on the 1st, the later new year's day, points to the shifting of the ceremony from the former date to the latter.

Since the original new year's day was the day of the fall equinox, it was undoubtedly of great importance to the people that the sun should make its appearance on that day. In fact, even in later times, the temple in Jerusalem was so built that the rays of the sun, as it rose on that day, should shine directly into the eastern gate of the temple and through all the other gates that were built in line with it.<sup>19</sup> With primitive people it would be only natural to assume that there are forces hindering the appearance of the sun at such a critical time. Consequently these forces would have to be dealt with. Frightening away an evil power, whether by shouting or other noises, is one of the most natural and obvious ways of dealing with it. True, as far as I have been able to determine, there is no reference to the belief, among Semitic peoples, that the forces which hinder the sun on this day are to be driven off. But the notion that eclipses of the sun and moon are caused by evil forces, powers, or dragons, which can be scared off, is a very common one.<sup>20</sup> It would therefore be doing no violence to our belief of how the popular mind worked to assume that some such belief about the sun and its struggle, particularly at such a critical time as the beginning of the new year, was entertained.

However, even if the evils to be dealt with on the new year's day are not directly connected with the appearance of the sun, it is a fact that there are many primitive and even rather advanced peoples who annually expel demons and evils from their midst, particularly on the first day of the new year or the last day of the old. Among the means used for their expulsion are fire and noises.<sup>21</sup> Just how the noise is produced is of secondary

<sup>19</sup> Morgenstern, *op. cit.*, pp. 16-19; cf. p. Erub. v, 1, 22c.

<sup>20</sup> Cf. Lasch, Die Finsternisse im religiösen Brauch der Völker in *Archiv für Religionswissenschaft*, vol. iii, 1900, pp. 97-152.

<sup>21</sup> Cf. Frazer, The Scapegoat, part vi of *The Golden Boughs*, London 1913, pp. 127-169, especially pp. 155-156, 169. Some primitive peoples have even gone so far as to associate the expulsion of demons with the removal of sin, and hence they confess on new year's day (Frazer, *op. cit.*, p. 127). Confession is an important part of our Day of Atonement ritual.

importance. The main thing is to make it and thus frighten away the evil or demon. This is the task of the shofar, associated as it was with the life of the people and never, in spite of the many rationalizations, completely dissociated from the belief in its efficacy in driving away evil powers.<sup>22</sup> Surely this belief in its efficacy in combating evil is not something that developed in the minds of the people later on, but rather the persistence of an older belief. Accordingly, if the use of the shofar is part of the ceremonies of the 10th, the original new year's day, it is obvious that its use is intended to drive off evil spirits prevalent on it. And, as suggested above, these evils may have been those hindering the coming of the sun, though there is no proof of this.<sup>23</sup>

■ See p. 227. Cf. Scheftelowitz, *Das Hörnermotiv in den Religionen*, *Archiv für Religionswissenschaft*, vol. xv, pp. 451-487, especially pp. 464, 476-482, 485-487. See Morgenstern, *Two Ancient Agricultural Festivals*, *JQR*, new series, vol. viii, p. 48, note 7.

<sup>23</sup> In Yoma 20a we find the following: שטן ביוםא דכיפורי ליה ליה רשותא לאוסטוני: ממאי אמר רמי בר חמא השטן בנסטריא תלת מאה ושיחין וארבע הוי תלת מאה ושיחין וארבע' יומי אית ליה רשותא לאוסטוני ביוםא דכיפורי ליה ליה רשותא לאוסטוני. Briefly, Satan has no power to harm or accuse on the 10th. The reason for this, however, is a very artificial one. At bottom the reason may be that he has been expelled on that day. He may have been expelled by being frightened off or by the use of the Azazel goat. If we bear in mind that this day is originally the first day of the new year, and note that the legend is here bound up with the solar, not the lunar, year, we may feel that we have a legend about the powers, that hinder the sun, being driven off at the beginning of the year. And since the shofar is used on this day, it may have been the means.

It may be contended that the time of blowing the shofar as we know it, namely, late in the morning on Rosh Hashana and at twilight at the end of Yom Kippur would show that the shofar could have had no connection with the rising sun. For the logical place for the shofar would be before sunrise. It is likely, though, that the shofar originally was blown very early in the morning and that only later was the position of the custom shifted—perhaps to divert the attention of the people from its original purpose. The Talmuds refer to the fact that the position of the ceremony was moved from earlier in the day to later in the day. In p. RH. iv, 8, 59c we find the following explanation of why it is that the shofar is blown by the second precentor at the services and not by the first: יעקב בר אחא בשם רבי יוחנן מפני מעשה שאירע פעם אחת תקעו בראשונה והיו השונאים סבורין שמא עליהם הם הולכין ועמדו עליהן והרגום מינו דאינון חמי לון קראו שמע ומצליין וקראין באוריתא ומצליין ותוקעין אינון אמרין בנימוסין אינון ר' יעקב בר אחא בשם רבי יוחנן מפני מעשה שאירע פעם אחת תקעו בראשונה והיו השונאים סבורין שמא עליהם הם הולכין ועמדו עליהן והרגום מינו דאינון חמי לון קראו שמע ומצליין וקראין באוריתא ומצליין ותוקעין אינון אמרין בנימוסין אינון עסקין. See also RH. 32b and the Tosafist s. שני who quotes this passage from the Jerushalmi. Without meaning to press this story to fit



Having considered the relation between the 10th and the 1st, and the probable transfer of some noise-making ceremony from

a theory, I believe that at least the transfer of the ceremony appears to be a fact. The reason may be the one that the Gemara gives. But there may be more than this involved. Perhaps the explanation is but a later attempt to explain what was known to them as a fact—namely, the shifting of the ceremony. It is possible that the real reason was forgotten or consciously ignored. The real reason may have been that a conscious effort was made to dissociate the blowing of the shofar from what may have been its original purpose. Shifting its position would be effective in doing this. In RH. 34a, in a discussion of the time when the shofar should be blown, day or night, we find the following: רבי שמואל בר נחמני אמר רבי יוחנן אחת מדבריי תורה ושתיים מדבריי סופרים: והעברת שופר תרועה מדבריי תורה שבתוך זכרון תרועה ויום תרועה לכם לחלמודו הוא בא מאי לחלמודו הוא בא מיבעי ביום ולא בלילה ואידך ביום ולא בלילה מנא ליה נפקא ליה מביים הכפורים. This suggests that there may have been some traditions in which it was held that the shofar was blown at night. Naturally, if the shofar was to be effective against those powers which hindered the new year's sun, it had to be blown when it was still dark. To overcome such a belief the time of using the shofar may have purposely been pushed ahead.

That the shofar is to be used on Rosh Hashana by day and not at night is here proved from its use on the 10th, Yom Kippurim, without any mention of the jubilee year at all. Of course this may be accidental. Perhaps יום כפורים is used loosely for the 10th when it is the beginning of the jubilee year. Still one gets the impression, especially because of the indiscriminate way in which a verse that in the Bible applies specifically to the 10th is made to apply to Rosh Hashana, that the use of the shofar on the 1st and the 10th are closely associated in the minds of the people—in spite of the Talmud's saying nothing about its use on the 10th as a regularly established ceremony. Note also RH. 34a: ושלש תרועות נאמרו בראש השנה שבתוך זכרון תרועה ויום תרועה והעברת שופר תרועה.

Furthermore it is noteworthy that the chief ceremonies of the שמחת בית השואבה were held during the night (cf. Suk. v, 1–5). It is clear now that the festival חג that later on became Sukkot immediately preceded the original new year's day on the 10th (cf. Morgenstern, *Two Ancient Agricultural Festivals*, *JQR*, new series, vol. viii, pp. 46, 48ff.). Now, it is possible that the use of the flute and the lights and the blasts on the horns was to drive away evil spirits. They are all well-known means. But that these ceremonies took place at night may show that there was some connection between them and the rising of the sun. The Mishna states only of the flute that it was used several days (cf. Is. 30.29). It neither says, nor does it give the impression, that the elaborate ceremonies, culminating in the blowing of the blasts at the temple steps took place more than once. Furthermore these blasts were not blown until immediately before sunrise (קרא הגבר mishna 4.). They may have been intended to help the sun rise on the day of the fall equinox—for it must be remembered that these ceremonies originally preceded the day of the equinox.

the former date to the latter, let us consider the Biblical legislation in so far as it involves the use or possible use of the shofar on these two days.

Lev. 25.9 reads: *והעברת שופר תרועה בחדש השביעי בעשור לחדש ביום הכפורים תעבירו שופר בכל ארצכם*. The general context of chapter 25 deals with the Sabbatical and Jubilee years.<sup>24</sup> The immediate context in which this verse is found deals with the jubilee year. Verse 9b is undoubtedly a gloss.<sup>25</sup> Significant it is that we have it clearly stated that the shofar was used on the 10th and that it was used to produce a *terua*.<sup>26</sup> Since the immediate context deals with the jubilee year, it is taken for granted that the use of the shofar is merely a jubilee year ceremony, performed to announce the beginning of the jubilee year. But there is more than this involved in the verse. The normal word for blowing

It is true that the *hazozera* is used here, but that tradition may arise out of the fact that the *hazozera*, not the shofar (see p. 212), is essentially the instrument of the temple, and that these ceremonies are here intimately associated with the temple. And the use of lamps and torches (mishna 3-4) may also have been intended either to keep away the forces hindering the sun, or they may have been considered a means of making the sun rise by some sort of sympathetic magic. The Mishna specifically states that the leaders of these ceremonies, after turning to the west, said: *אבותינו שהיו במקום הזה אהוריהם אל*: *היכל ופניהם קדמה והמה משחחים קדמה לשמש ואנו ליה עיינו*. In other words, the Mishna itself recognizes that all of these ceremonies had some connection with an original sun worship (cf. Ez. 8.16; 11.1ff.).

Let me here state that most of the material that I have used in discussing the solar phases of the Hebrew religion, as well as my whole orientation in these matters, has been based upon the writings of Dr. Morgenstern on the subject, and upon my discussions with him. I have given the references, but merely giving the references does not indicate the extent of my indebtedness to his work.

<sup>24</sup> Closer inspection reveals that the chapter is by no means a unit, nor are the verses logically arranged as they stand. Verses 1-7 deal with the Sabbatical year; verses 8-19 with the jubilee. Then verses 20-22, which are a good continuation of verse 7, deal again with the Sabbatical year, while verses 23-24, which are a good continuation of verse 19, again deal with the jubilee year.

<sup>25</sup> See Morgenstern, *HUCA*, vol. i, p. 27.

<sup>26</sup> For the present I shall merely transliterate the word. Later we shall attempt to determine exactly what it indicates. Literally it means shouting, noise.

the shofar, חָקַע, is not used here. Instead we find הָעֵבִיר. It is impossible to determine exactly what הָעֵבִיר means in this passage. Off hand, if one could forget interpretations and traditions, one might suppose that the word means "extend."<sup>27</sup> If such a supposition is tenable, then the verse may be merely saying that the use of the shofar *terua*, which is a regular ceremony connected with the 10th, is to be extended when the 10th happens to be the beginning of the jubilee year. But even if this is untenable, and הָעֵבִיר merely means that the shofar is to be sounded throughout the land, verse 9a none the less takes it for granted that the new year began on the 10th and that a *terua*, produced by the shofar, was a ceremony of the day.<sup>28</sup> Furthermore, the context here belongs to H, which is early priestly. Even if verse 9 is P, it is early P.

Lev. 23.24 reads: דָּבַר אֶל בְּנֵי יִשְׂרָאֵל לֵאמֹר בַּחֹדֶשׁ הַשְּׁבִיעִי בְּאוֹחַד זָכְרוּן תְּרוּעָה מִקְרָא קֹדֶשׁ. לַחֹדֶשׁ יִהְיֶה לָכֶם שַׁבְּתוֹן וְזָכְרוּן תְּרוּעָה מִקְרָא קֹדֶשׁ. The passage takes it for granted that the new year now begins on the 1st. זָכְרוּן תְּרוּעָה may be a gloss, because it seems to disturb the context. If it is, we see clearly that when the new year's day was transferred to the 1st, there was no *terua* on that day. However, even if it is not a gloss, we still can see that when the 1st of the month became the day for the celebration of the new year, no *terua* was produced on it. But there lingered in the memory of the people a זָכְרוּן תְּרוּעָה, a memory that a *terua* had been part of a new year's celebration—the old one of course, that used to be on the 10th. Thus we see that the *terua* was connected with the new year, in spite of the shift of the date. This passage, which is later than Lev. 25.9 is secondary P and shows that the *terua* was not yet officially, at any rate, a ceremony of the new year's day.

But Nu, 29,1 reads: וּבַחֹדֶשׁ הַשְּׁבִיעִי בְּאוֹחַד לַחֹדֶשׁ מִקְרָא קֹדֶשׁ יִהְיֶה לָכֶם

<sup>27</sup> Cf. Gesenius-Buhl<sup>27</sup> s. עָבַר.

<sup>28</sup> It is true that some of the later authorities explain its use on Yom Kippur in post-Talmudic times as being based on the earlier use in the jubilee year; cf. Hai Gaon, quoted in Aaron of Lunel's *ארחות חיים*, Firenze, 1750, 108a. But Aaron of Lunel doubts this because it would be strange to base an annual custom upon one that was observed only once in 50 years. He says (*ibid.*) that its purpose is to confound satan.

כל מלאכת עבודה לא תעשו יום חרועה יהיה לכם. Here the matter is very plain. The 1st is now officially a יום חרועה. The vague זכרון חרועה of Lev. 23.24 is no longer used. We see that the *terua* is now a recognized part of the ceremonies connected with the 1st,<sup>29</sup> the new year's day. The passage is secondary P, but later than Lev. 23.24.

Since these passages as we have discussed them are most likely arranged in their chronological order,<sup>30</sup> we can reconstruct the following story of the *terua*: Originally it was produced on the 10th by the shofar as part of the new year's rites. When the date of the beginning of the new year was shifted to the 1st, the *terua* was not transferred, at least not officially, and was not a part of the ritual, probably because it was a part of the old sun-worship that the priestly legislators objected to. But it was not eliminated from the memory of the people, and most likely not from the popular practice. However, the legislators were able to keep it from being a part of the ritual for the 1st. As time went on the popular custom kept asserting itself, or, put other-

<sup>29</sup> The Rabbis explain that יום חרועה indicates that the shofar is to be blown on Rosh Hashana; while זכרון חרועה indicates that when Rosh Hashana falls on the Sabbath the shofar is not to be blown. See p. RH. iv, 1, 59b. Here the question is raised as to whether the use of the shofar on Rosh Hashana is a Torah commandment or not. אין לית הוא דבר תורה . . . אין דבר תורה. See, in the same vein RH. 29b, and note Rashi *ibid.* s. זכרון חרועה who says ולא חרועה ולא חרועה. Yet there is difficulty explaining just why the shofar may not be blown on the Sabbath, particularly since RH. iv, 1 permits it in the time of the temple and also after the destruction of the temple in places where there is a Beth-din. The Gemara *ibid.* says: אמר רבא מדאורייתא: משרא שריא ורבנן הוא דגזר ביה כדרבה דאמר רבה הכל חייבין בתקיעה שופר ואין הכל בקיין בתקיעה שופר גזירה שמה יטלנו בידו וילך אצל הבקי ללמוד, ויעבירו ארבע אמות ברשות הרבים.

Rabba's statement, by the way, shows how popular and widespread the use of the shofar was. But this does not explain why it would not have been used in the synagogue ritual on the Sabbath. Most likely the following happened: Its use on the Sabbath was permitted in the temple, because there it was a part of the ritual, probably the sacrificial ritual; and all acts connected with the sacrificial ritual were permitted on the Sabbath. But with the destruction of the temple the necessity for this disappeared. Hence its use on the Sabbath was in time forbidden, or at least was not customary.

<sup>30</sup> That is, Lev. 25.9 is either H or at the latest early P; Lev. 23.24 is secondary P; Nu. 29.1 is very late secondary P. These datings are accepted by Dr. Morgenstern.

wise, what had been merely suppressed kept struggling to be realized again. Consequently, since the legislators could not suppress the old folk-custom any longer, they had to incorporate it into the ritual. We have then an aspect of the struggle between the people and the priestly legislators.

Now we may ask how this *terua* was produced. Clearly Lev. 25.9 indicates that the original *terua* on the 10th was produced by a shofar. But how about the *terua* of the 1st, especially since no shofar is mentioned in connection with it? Again, the *terua* can be produced merely by the voice, since it means shouting, or by a blast on a horn. Granting that in so far as it is connected with the 1st it was produced on a horn, can we be sure that the horn for the 1st was the shofar?

It is difficult to solve these problems, because we can apparently not determine exactly what *terua* in the Bible means, especially in Nu. 29.1. Generally, it means shouting, a loud noise, and the verb *הריע* means to shout, to make a noise. It is pretty certain that *הרועה* and *הריע* do not necessarily involve the shofar. The phrase *שופר הרועה* would indicate that the shofar is just one means of producing a *terua*. Where shofar and *terua* are used in parallelism we should rather feel that the *terua* does not necessarily involve the shofar. The word for blowing, used in connection with the shofar is *חקע* not *הריע*; *הריע* when it clearly indicates a horn is used of the *ḥazōzera*, not the shofar.<sup>31</sup> Furthermore nowhere in the Bible is the shofar mentioned in connection with the new new year's date, the 1st. What, then can *terua* imply?

The only passage in which *terua* by itself definitely means blast is the section Nu. 10.1–10, where the instructions for the making of the *ḥazōzera* and its use are given. In verse 5 and 6 we find *והקעתם הרועה*; and in verse 6 again, *הרועה יחקעו* (cf. *החצרות*, Nu. 31.6). Furthermore it should be noted that this passage is of the same priestly character as Nu. 29.1 and Lev. 23.24, where *terua* alone is used.

Now, among the uses of the shofar, which we have seen to be

<sup>31</sup> See the concordance. It is true that we find Ps. 98.6 *שופר וקול* *בחצרות* *והריעו לפני המלך יהוה* but here *הריעו* may be construed with *בחצרות*. At any rate *הריע* is not the technical word for blowing the shofar, as *חקע* is.



the popular instrument and generally to be non-ritualistic, we have found that it is used in war; that it is a signal to summon the people; that it is used on joyous occasions, as at the return of the ark by David. And we may also have a reference to its being used at the new moon, and at the Sukkot festival (see p. 198). Furthermore the passages in which it occurs are almost without exception early (see p. 199 and note 15).

But in the priestly passage Nu. 10.1-10 we are told definitely that the *ḥazōzera* is to be used for some of these purposes. Although the passage says nothing about its replacing the *shofar* in these uses, we cannot help feeling that the legislation here may have this in mind. Verses 1-6 tell that the *ḥazōzera* is used to summon the people; while the *shofar* was used to summon the people. Verse 9 tells that the *ḥazōzera* is to be blown in times of war so that God will be reminded of His people and save them; while the *shofar* is associated frequently with war, and not only this, but Neh. 4.14 tells the people that after they have assembled at the sound of the *shofar* God will fight for them. If *יום שמחתכם* in verse 10 means day of rejoicing in general, we have a use of the *ḥazōzera* paralleling that of the *shofar* on joyous occasions. If it does not and if *וביום שמחתכם ובמועדיכם* together mean festivals—we have seen that the *shofar* too was used at the *חג*. Verse 10 states also that it is to be used at the time of the new moon; while we have seen that the *shofar* may have been used on the new moon. Finally it is to be used in connection with the sacrifices, and it is the priests who are to blow the *ḥazōzera*.

A consideration of most of the other passages in the Bible where the *ḥazōzera* is mentioned will serve to show how thoroughly the ritual and priestly use of the *ḥazōzera* supplanted the popular use of the *shofar*. It is interesting to see how some of the functions that the *shofar* used to perform are in the priestly portions of the Bible performed by the *ḥazōzera*, how the directions for the use of the *ḥazōzera* in Nu. 10.1-10 are carried out.

Several passages show that it was used in war, whether to signal the people or frighten the enemy. Nu. 31.6 refers to its use in the war against Midian. In 2 Ch. 13.12, 14, 15 we find the *ḥazōzera* playing an important role in the war between Jeroboam

and Abijah king of Judah. Here the *ḥazozerā*, as is directed in Nu. 10.9, is blown by the armies of Judah when they are surrounded by the troops of Israel. God hears and defeats Jeroboam's army.

2 K. 11.14 and the parallel in 2 Ch. 23.13 describe the role of the *ḥazozerā* when Joash is proclaimed king of Judah. This can be contrasted with earlier passages, *e.g.* 2 S. 15.10; 2 K. 9.3 where the shofar is used on similar occasions. The *ḥazozerā* at the anointing of Joash is also represented as an accompaniment to the joy of the people, and it may also be a means of summoning them. The use in 2 Ch. 33.13 is of course to be expected; the chronicler is priestly in his standpoint. But even 2 K. 11.14 shows very strong priestly influence. One cannot but notice, for instance, the important part played by Jehoiada the priest. However, there is one peculiarity in these two passages. The people at large, *עַם הָאָרֶץ*, are represented as using the *ḥazozerā*, contrary to Nu. 10.9.

In the accounts of David's bringing the ark back to Jerusalem the contrast between the *ḥazozerā* and the shofar is very clearly brought out. 2 S. 6.15 states that the shofar was used in the procession; the parallel in 1 Ch. 15.28 also mentions the shofar, but adds the *ḥazozerā*. In the whole expanded account in Chronicles the *ḥazozerā* is included frequently. 1 Ch. 15.24; 16.5, 42 include the *ḥazozerā*. The *מִנְעָנִיעִים*, a sort of sistrum, of 2 S. 6.5 is in 1 Ch. 13.8 replaced by the *ḥazozerā*.

A comparison of the account of the completion and dedication of Solomon's temple in 1 K. 7.51—8.65 with the account in 2 Ch. 5.1—7.9 will indicate the extensive use of the *ḥazozerā* in the later account. In 1 K. no instruments of music are mentioned at all; the use of the *ḥazozerā*, with other instruments, is found in 2 Ch. 6.12, 13; 7.6.

Finally, the *ḥazozerā* is mentioned together with the shofar in four passages: Ps. 98.6 (see p. 196); 1 Ch. 15.28; 2 Ch. 15.24; and Hos. 5.8. With the exception of the last passage these are all late. And in the passage in Hos. 5.8 the *ḥazozerā* may not have been mentioned originally.<sup>32</sup>

<sup>32</sup> Cf. the Septuagint, which has a different text. But most likely the word is genuine; it is required by the parallelism. The *ḥazozerā*, though primarily

Summing up briefly, then, we find that with almost no exception the *ḥazōzera* is not mentioned in early passages of the Bible at all. It is used for several purposes in later passages for which we find the *shofar* used in earlier passages. It is used almost exclusively by the priests, and generally in connection with the ritual. Furthermore, in the only instances where *terua* definitely means blast, it is produced by the *ḥazōzera*.

In view of all this it is more than likely that Nu. 29.1, which is of course priestly, had in mind that the *terua* was to be produced by the *ḥazōzera*. In that case we have the displacement of the popular instrument by the priestly ritualistic one, and we again see an aspect of the constant struggle that went on between priestly and popular forces.

It may be asked why it was that the legislators did not insist that the *terua* of the 10th, even though it was according to them produced only in jubilee years, be produced by the *ḥazōzera*, since it is the priestly instrument, and since they were combating the popular *shofar*. The answer is not difficult. It would have been very hard to completely dissociate the *shofar* from the 10th, since that was the day on which it was originally used. The innate conservatism of the folk is usually too strong to permit such a thing. But the legislators did restrict its use, officially, to the jubilee year.<sup>33</sup>

So it would seem that after the time of the Biblical legislation, officially at any rate, the *shofar* was not used either on the 10th of the month, *יום הכפורים*, the original new year's day, or on the 1st, the later new year's day.

But this does not mean that the popular use was suppressed completely. As for Yom Kippur, the *shofar* appears as part of the ritual after Talmudic times. This would show that the popular use on that day had never disappeared, and that popular custom grew so strong that the use of the *shofar* had to be made part of the ritual.

associated in later times with the priests, was surely not a post-exilic invention. It could have been used early with the *shofar* without any priestly associations. Hence it may be original here.

<sup>33</sup> For the opinion of Philo and of the Karaites on what *יום חרועה* was, See Revel, *JQR*, new series, vol. iii, pp. 386-387, and note 114 on p. 386.

And surely its official use on the 1st of the month, where it did not belong originally, is to be attributed to popular pressure. Its use on this day, the new year's day, must have grown to be prevalent, for in the Mishna (RH. iii, 3) we find the shofar and the ḥazōzera side by side. And not only this, but the shofar, not the ḥazōzera, plays the chief role: "The shofar for the New Year is made of the horn of the ibex, is straight, and its bell is overlaid with gold. Two ḥazōzeras are on either side. The sound of the shofar is sustained, while that of the ḥazōzera is shortened, for the order of the day requires the shofar."<sup>34</sup> Undoubtedly the gradual weakening of the priestly, or Sadducean, party and the ultimate triumph of the popular Pharisaic party had a great deal to do with this state of affairs. Furthermore, since the shofar may have been used in early times at the time of the new moon (see p. 198), it might have been somewhat the easier for its use to become a regular part of the Rosh Hashana ritual.<sup>35</sup>

But if we really have a struggle between the popular shofar and the priestly ḥazōzera, and if the priestly party grew weaker and weaker, why did not the ḥazōzera disappear entirely after the destruction of the temple? Again, the ḥazōzera in the temple ritual was used to accompany the sacrifices (cf. Nu. 10.10; 2 Ch. 29.26-29). All the more, then, should it have gone when the temple went.

The later traditions for Rosh Hashana and Yom Kippur do not know the use of the ḥazōzera at all. This would tend to show that its use disappeared after the destruction of the temple. But even with respect to the Mishna, I believe that those traditions in which the ḥazōzera is mentioned refer to the time when the temple was still standing, while those passages in which the shofar alone is mentioned refer to post-temple times.

In the two passages where the shofar is used in conjunction with the ḥazōzera (RH. iii, 3 and 4) the shofar is not the ordinary one. In the first passage it is referred to as having its bell covered

<sup>34</sup> שופר של ראש השנה של יעל פשוט ופיו מצופה זהב ושתי חצוצרות מן הצדדין שופר מאריך וחצוצרות מקצרות שמצות היום בשופר

<sup>35</sup> RH. iii, 5 records that the same procedure obtained in jubilee years. On fast days, too, both the shofar and ḥazōzera were used, but the chief role was played by the ḥazōzera (RH. iii, 4).

with gold, and in the second with silver. Surely this is not the popular instrument, but one adapted for temple use. Furthermore the Mishna here gives the arrangement and respective positions of the shofar and ḥazōzera. This inevitably must refer to the arrangement in the temple.

Other passages in the Mishna which deal with the shofar suggest that we are confronted with its popular, not its ritualistic use. For example, we can hardly think of the shofar in a passage like RH. iii, 7: "He who blows into a pit, or a cistern, or a cask"<sup>36</sup> being used in a temple ritual. Nor could RH. iv, 8: "Children are not to be prevented from blowing the shofar, but one should practice with them till they learn. He who practices with them does not thereby fulfill the obligation of blowing the shofar, nor does he who listens to the shofar being blown by the one who practices with them fulfill the obligation"<sup>37</sup> very well refer to a scene in the temple. In fact these passages can hardly refer to a scene in the synagogue.

Furthermore the Talmuds also preserve several echoes of the ḥazōzera's having yielded completely to the shofar after the destruction of the temple. Shab. 36a gives the following statement in the name of R. Hīsa: "The following three groups of words had their meanings interchanged after the destruction of the temple: What was formerly called ḥazōzera was called shofar, and what was formerly called shofar was called ḥazōzera."<sup>38</sup> This can hardly mean that what was once called shofar is called ḥazōzera and vice versa. That hardly makes sense. Undoubtedly what it is at the bottom of it is that after the destruction of the temple the shofar supplanted the ḥazōzera. Again, Sota 43a, commenting upon Nu. 31.6 says: "The phrase 'alarm trumpets' means shofars."<sup>39</sup> And p. RH. iii, 1, 58d quotes a baraita which says: "There were ḥazōzeras in the temple, but not outside the temple."<sup>40</sup> We can be pretty sure, then, that after the destruction

<sup>36</sup> התוקע לתוך הבור או לתוך הדות או לתוך הפיטם.

<sup>37</sup> אין מעכבין את התינוקות מלחקע אבל מתעסקין עמהן עד שילמדו והמתעסק לא יצא.  
והשומע מן המתעסק לא יצא.

<sup>38</sup> הני תלת מילי אישתני שמייהו מכי חרב בית המקדש חצוצרתא שופרא שופרא חצוצרתא.

<sup>39</sup> וחצוצרות התרועה אלו השופרות.

<sup>40</sup> חצוצרות במקדש אין חצוצרות בגבולין.



of the temple the shofar alone was used on Rosh Hashana. Thus the triumph of the popular ceremony is complete.

But now that the use of the shofar is well established on the 1st, Rosh Hashana, the Rabbis do not allow it to stand there unexplained. The Pharisaic teachers, it is true, were willing to allow the people their customs and their practices, but they always explained them so as to put higher and nobler sentiments into them. They did not allow them to stand in their original crudity, and they either explain away or rationalize the old superstitions and beliefs that were at the basis of the customs and ceremonies. And even if such customs had no basis in the Bible they tried to find some Biblical support for them.

Since there is no direct reference in the Bible to the blowing of the shofar on Rosh Hashana, the Rabbis find a basis for the custom by a consideration of Lev. 25.9 which, as we have shown, deals with the original new year's day. Sifra to Lev. 23.24 reads: "Whence do we know that the blast (of Nu. 29.1) is to be produced on the shofar? Scripture says (Lev. 25.9): 'And you shall cause to resound the blasting shofar in the seventh month on the 10th of the month, on the Day of Atonement.' Now, Scripture did not have to say 'in the seventh month.' Why then does Scripture say 'in the seventh month?' To show that the blasts of the seventh month are like this one—just as this one is produced on the shofar, so is that on Rosh Hashana to be produced on the shofar."<sup>4</sup> However, this hardly constitutes a strong proof that the Bible meant the shofar. It is merely a support for what is known as an established ceremony.

RH. 34a establishes its use by an interpretation of Ps. 81.4 (see p. 199). The passage runs: "Against the Tanna who learns about the shofar on Rosh Hashana from the procedure in Nu. 10.4 might not one argue thus: Just as there (Nu. 10.4) *ḥazōzeras* are used, so also here (Nu. 29.1) *ḥazōzeras* are meant? Scripture,

ומניין שהוא בשופר חלמוד לומר והעברת שופר תרועה בחדש השבעי בעשור לחדש ביום 4  
הכפורים שאין חלמוד לומר בחדש השבעי ומה חלמוד לומר בחדש השבעי הרי תרועת שביעית  
כזו מה זו בשופר אף תרועת ראש השנה בשופר It is possible that the Rabbis have in  
mind not merely a verbal transfer of words from one verse to the other, but  
that the memory of an actual transfer of the use of the shofar from one day  
to the other lingered in their minds.

however, says (Ps. 81.4): 'Blow on the shofar at the new moon, at the covering, for the day of our festival.' Now which festival is it in which the new moon is covered? It can be none other than Rosh Hashana, and in connection with it God says 'shofar.'"<sup>42</sup> Here the proof hinges on the interpretation of כסה which I have rendered "covering." But its meaning cannot be determined (see p. 199).

But providing a Biblical basis for the ceremony merely tells that it is to be performed. It does not tell why, nor does it explain its significance. If we remember that the original notions at the bottom of the ceremony are very crude, we shall not be surprised to find much rationalization and sublimation here.

In RH. 16a R. Isaac, beginning to ask: "Why does one blow the tekia on Rosh Hashana" is interrupted by the rejoinder: "Why blow the tekia! God said: 'Blow the tekia.' When the question is changed to "Why does one blow the terua," the rejoinder is "Why blow the terua! God said: 'A remembrance of a terua.'"<sup>43</sup> These rejoinders take it that the reason for blowing the shofar on Rosh Hashana is that it is a divine command, and no more. One of two things may be at the bottom of such statements: Either the original reason is unknown, or, what is more likely, the real reason is so unsatisfactory that it has to be ignored or suppressed. The continuation of this discussion in the Gemara (see p. 219) would show that the latter was the case.

Already the Mishna (RH. iv, 5-6; cf. RH. 32b) has surrounded the blowing of the shofar in the liturgy with the groups מלכיות, זכרונות, שופרות. The first is a group of Biblical passages that have bearing on the kingship of God, as Ez. 20.33; the second a group

ולחאי תנא דמייתי לה ממדבר אי מה להלן חצוצרות אף כאן חצוצרות ת"ל תקעו בחדש<sup>42</sup> שופר בכסה ליום חגנו אי זהו חג שהחדש מתכסה בו הוי אומר זה ראש השנה וקאמר רחמנא שופר. Cf. Vay. R. par. 29; Pesikta Buber, 152, and his note 46.

It should be borne in mind that when the Gemara introduces an argument by יכול or אי מה the argument is not necessarily a theoretical one. The opinion introduced by יכול or אי מה more than likely represents a tradition that has not been adopted by the Rabbis. Applying this viewpoint, we have in this discussion a tradition that terua was associated with the *hazozera*, not with the shofar.

<sup>43</sup> למה חוקעין בראש השנה למה חוקעין רחמנא אמר תקעו אלא למה מריעין רחמנא אמר למה חוקעין בראש השנה למה חוקעין רחמנא אמר תקעו אלא למה מריעין רחמנא אמר. Cf. Rabinovicz, *Dikduke Soferim*, ad loc.

of passages suggesting that He is mindful of His people, as Ps. 78.39; the third a group of passages that mention the shofar, particularly as it is referred to in their eschatology, as Zach. 9.15. Surely if the shofar were a perfectly neutral instrument, with no objectionable associations, it would not have been necessary to surround its use with such an elaborate array of verses.

The most common explanation of the use of the shofar is that it is to remind God of something. This is not at all a far step from the use of the shofar that we find in the Bible, to attract the attention of the people (see p. 197). Nu. 10.9 states that the people will be recalled by God when He hears the sound of the *ḥazoḇera* and that He will then save them from their enemies; and since the shofar is to the people at large what the *ḥazoḇera* was to the priests, it is but natural that such an interpretation should arise. Thus, when God hears the sound of the shofar he is reminded to move His seat from the throne of judgment to the throne of mercy, and to judge the people favorably. In the *Pesikta* (Buber p. 151b) we find: "Judah bar Nachmani in the name of Resh Lakish began with the text (Ps. 47.6): 'God has gone up in the loud sound, Jehovah in the sound of the shofar.' When the Holy One Blessed Be He ascends and sits on the throne of judgment, He ascends with the intention of judging, as it is written: 'God has gone up in the loud sound.' But when the Jews take their shofars and blow them, the Holy One Blessed Be He gets up from the throne of judgment, and sits on the throne of mercy, as it is written: 'Jehovah in the sound of the shofar.' He becomes filled with mercy for them, and has compassion upon them. He turns, in their favor, the measure of justice into the measure of mercy. When? 'In the seventh month, on the first of the month (Lev. 23.24).'

Here the picture is very well refined and toned down. Satan does not appear as the adversary, but God is made to judge by Himself. And since the role of the adversary, the original evil<sup>44</sup>

<sup>44</sup> יהודה בר נחמני בשם ריש לקיש פתח עלה אלהים בתרועה ה' בקול שופר בשעה שהקב"ה עולה ויושב על כסא הדין בדיון הוא עולה דכתיב עלה אלהים בתרועה ובשעה שישראל נושלין שופר ותוקעין הקב"ה עומד מכסא הדין ויושב על כסא הרחמים דכתיב ה' בקול שופר מתמלא עליהם רחמים ומרחם עליהם והופך להן מדת הדין למדת הרחמים אימתי בחדש השביעי באחד לחדש. See Buber note 29; Cf. Vay. R. par. 29.

has disappeared, the shofar is not used to frighten him away, but merely to suggest to God that He is to give the people a favorable decision.

In another midrash (Vay. R. par. 29) the shofar plays the same role. The midrash is based upon a pun on the word shofar, in which it is connected with the stem *shafar*, to be good, and upon the shape of the horn: "In this month make good your deeds by means of the shofar; in this month beautify your deeds. Behold, I shall become like a shofar unto you: Just as a shofar takes in at one end and discharges at the other, so shall I get up from the throne of judgment and shall sit on the throne of mercy, and shall turn, in your behalf, the attribute of justice into the attribute of mercy. When? 'In the seventh month (Lev. 23.24).'"<sup>45</sup>

The Pesikta (Buber 152a) tells that although other nations have horns too, it is only Israel which knows how to persuade its Creator by the use of the shofar: "Said R. Josiah: It is written (Ps. 89.16): 'Happy the people that knows the terua.' Now, do not all the nations know how to blow a blast? Think of the various horns, the various cornets, the various trumpets that they have. And yet you say 'Happy the people that knows the terua!' Of course, for this means happy the people who know how to appease their Creator by means of the terua. When? 'In the seventh month on the first of the month (Lev. 23.24).'"<sup>46</sup>

All the more does the shofar remind God to be kind to His people because it is made of the horn of a ram. It thus recalls the binding of Isaac and his redemption by a ram. Therefore God recalls that, as he saved Isaac, He is to save His people. He is to save them not only from His harsher judgment, but also from the trials and persecutions they are the victims of, and from their subjection to the nations. All of these notions are found in Vay. R. par. 29: "R. Bibi son of Abba in the name of

בחדש זה התחדשו מעשיכם בשופר בחדש הזה שפרו מעשיכם הריני נעשה לכם כשופר  
מה שופר זה מכניס בוז ומוציא בוז כך אני עומד מכסא הדין ויושב על כסא רחמים והופך לכם  
מדת הדין למדת הרחמים אימתי בחדש השביעי Cf. Pesikta Buber, 154a, and the notes;  
cf. also Midrash Tehillim on Ps. 81.

א"ר יאשיה כתיב אשרי העם יודעי תרועה וכי אומות העולם אינן יודעים להריע כמה  
קרנות יש להם כמה בוקינזם יש להם וכמה סלפידים יש להם ואת אומר אשרי העם יודעי תרועה  
אלא אשרי העם שיודעים לפתות את בוראם בתרועה אימתי בחדש השביעי באחד לחדש  
Buber's note 40; cf. Vay. R. par. 29.

R. Joḥanan said: Our father Abraham stood in prayer and entreaty before the Holy One Blessed Be He, and said: Master of the world! It is clearly known to You that when You said to me (Gen. 22.2): 'Take your son, your only one' I had a reply for You in my mind, and I had in mind what to tell You:—Yesterday You said to me (Gen. 21.12): 'For after Isaac shall your seed be called' and now You say to me (Gen. 22.2): 'And bring him up there as a sacrifice.' Now, just as I had an answer to give, but controlled myself and did not give it—'Like a deaf man, hearing not, am I, like a dumb man who opens not his mouth (Ps. 38.14)'—just so, when the children of Isaac get into sinning and wrongdoing, do Thou recall, in their behalf, the binding of Isaac their father, arise from the throne of judgment and go to the throne of mercy, be filled with mercy towards them, have compassion upon them; turn, in their favor, the measure of justice into the measure of mercy. When? 'In the seventh month (Lev. 23.24).' 'And Abraham raised his eyes and saw, and behold a ram was caught in the thicket by its horns (Gen. 22.13).' This teaches that God made the ram appear to our father Abraham as though freeing himself from one thicket and then being entangled in another. Said The Holy One Blessed Be He to Abraham: Just so are your descendants destined to be involved in sins and entangled in troubles. But they will in the end be redeemed by the horn of a ram; as it is written (Zach. 9.14): 'And the Lord God will blow the shofar.' Said R. Huna son of Isaac: This teaches that the Holy One Blessed Be He showed Abraham the ram freeing himself from one thicket and then being entangled in another. Said The Holy One Blessed Be He to Abraham: just so are your descendants destined to be seized by the nations and entangled in troubles, and dragged from kingdom to kingdom, from Babylonia to Media, from Media to Greece, and from Greece to Rome. But finally they will be redeemed by the horn of a ram, as it is written (Zach. 9.14): 'And the Lord will appear over them, and His arrow shall go out like lightning.' R. Abba son of R. Pappi and R. Joshua of Siknin in the name of R. Levi say: All year round the Jews are busy at their tasks; but on Rosh Hashana they take their shofars and blow them before God. He goes from the throne of judgment to the throne of mercy,



and is filled with mercy for them. When? 'In the seventh month (Lev. 23.24).' <sup>47</sup>

Much briefer, and with a slightly different turn, is the statement of Abbahu (RH. 16a): "Why does one blow on a ram's horn? Said 'The Holy One Blessed Be He: Blow a ram's horn before me so that I may recall, in your behalf, the binding of Isaac, son of Abraham, and shall count it to your credit as though you had bound yourselves before Me.'" <sup>48</sup>

In the Bible the shofar is used at the coronation of a king (see p. 195) And it is also likely that the concept of God the King coming up and judging the nations, accompanied by the sound of the shofar, goes back to the original notion of the sun's coming up on the new year's day and being "helped" by the sound of the shofar (see p. 201). Naturally, then, in later times the shofar can very well be associated with the kingship of God. A baraita in RH. 16a combines this idea with that of His remembering His people: "Said R. Judah in the name of R. Akiba . . . and say before Me *malkuyot*, *zichronot*, and *shofarot*. *Malkuyot*, in order that you may make Me King over you. *Zichronot*, that the memory of you may rise before Me in your favor. And with what? With the shofar." <sup>49</sup>

ר' ביבי בר אבא בשם ר' יוחנן עמד אברהם אבינו בתפלה ותחנונים לפני הקב"ה ואמר <sup>47</sup> לפניו רבש"ע נלוי וידוע לפניך בשעה שאמר לי קח נא את בנך את יחידך היה בלבי מה להשיבך והיה בלבי מה לאמר אתמול אמרת לי כי ביצחק יקרא לך זרע ועכשיו אחא אומר והעלהו שם לעולה אלא כשם שהיה לי מה להשיבך וכבשתי את יצרי ולא השיבותיך כחרש לא אשמע וכאלם לא יפתח פיו כך כשהיו בניו של יצחק באים לידי עבירות ומעשים רעים תדא מזכיר להם עקידת יצחק אביהם ועומד מכסא הדין לכסא רחמים ותתמלא עליהם רחמים ותרחם עליהם ותהפוך להם מדה"ד למדת רחמים אימתי בחדש השביעי וישא אברהם את עיניו וירא והנה איל אחר נאחז בסבך בקרניו מלמד שהראה הקב"ה לא"א את האיל נותש מחורש זה ונסבך בחורש אחר אמר הקב"ה לאברהם כך עתידין בניך להיות נאחזים בעונות ונסבכים בצרות וסופן לינאל בקרניו של איל הה"ד וה' אלהים בשופר יתקע אמר ר' הונא בר יצחק מלמד שהראה הקב"ה לאברהם את האיל ניתש מחורש זה ונסבך בחורש זה אמר הקב"ה לאברהם כך הם עתידין בניך נאחזין באומות ונסבכין בצרות ונסבכין ממלכות למלכות מבבל למדי ממדי ליון ומיון לאדום וסופן לינאל בקרניו של איל הה"ד וה' עליהם יראה ויצא כברק חצו רבי אבא בריה דרב פפי ורבי יהושע דסכנין בשם ר' לוי אומר כל ימות השנה ישראל עוסקין במלאכתו וברח"ש נושלין שופרותיהן ותוקעין לפני הקב"ה והוא עומד מכסא דין לכסא רחמים ומתמלא עליהם רחמים אימתי בחדש השביעי Cf. Pesikta Buber 154a-b.

למה תוקעין בשופר של איל אמר הקב"ה תקעו לפני בשופר של איל כדי שאזכור לכם <sup>48</sup> עקידת יצחק בן אברהם ומעלה אני עליכם כאלו עקדתם עצמכם לפני

אמר רבי יהודה משום ר' עקיבא . . . ואמרו לפני מלכיות וזכרונות ושופרות מלכיות כדי <sup>49</sup> Cf. RH. 34b. שתמליכוני עליכם וזכרונות כדי שיעלה וזכרונכם לפני לטובה ובמה בשופר

In these explanations all the objectionable associations that the shofar may have had are completely gone. Yet they are not far-fetched, for they are based upon uses of the shofar that are found in the Bible—whether in its role at the inauguration of a king, or of reminding its hearers of something. The original function of the shofar, in which it was used to frighten away evil forces, and of which we may have traces even in the Bible, is toned down or got rid of by making the evil the attribute of justice as opposed to mercy, or making it synonymous with sin or oppression. Or the driving away of the evil power is sublimated into the idea that people repent and submit to God. This is characteristic of the way the Rabbis took popular and superstitious practices and beliefs and transformed them.

Yet, in RH. 16a (see p. 214) we are very close to, if not actually confronted with, the real reason for blowing the shofar: "Said R. Isaac: Why does one blow the tekia on Rosh Hashana? Why?! God said (Ps. 81.4): 'Blow the tekia.' Well then, why does one blow the terua? Why?! God said (Lev. 23.24): 'A remembrance of a terua.' Well then, why do they sound the tekia and the terua when the people sit, and sound the tekia and the terua when the people stand? In order to confound Satan. R. Isaac also said: In any year at the beginning of which they do not sound the tekia, they have to sound the terua at the end. Why? Because Satan was not confounded."<sup>50</sup> It is not necessary to determine exactly what Satan denotes here. What we have is a direct reference to the belief that the sound of the shofar confounds and confuses an evil spirit. Furthermore, reference is made to two series of blasts, that blown during the Amida and that blown before it. It appears that one is considered an integral part of the ritual, the other merely a means of confusing Satan. Thus we find two notions about the shofar, one primitive and the other advanced, struggling, perhaps in the mind of one man. And if the rejoinders "Why?! God said: 'Sound the tekia'" and "Why?! God said: 'A remembrance of the terua'" are original,<sup>51</sup> we can

א"ר יצחק למה תוקעין בראש השנה למה תוקעין רחמנא אמר תקעו אלא מריעין מריעין<sup>50</sup>  
רחמנא אמר זכרון תרועה אלא למה תוקעין ומריעין כשהן יושבין ותוקעין ומריעין כשהן עומדין  
כדי לערבב השטן וא"ר יצחק כל שנה שאין תוקעין לה בחהילה מריעין לה בסופה מ"ט דלא  
איערבב שטן<sup>51</sup> Cf. Rabinovicz *ad loc.*

more clearly see a struggle between the primitive and the advanced. The phrase לעררב השטן "to confound Satan" persists throughout the whole history of the shofar.<sup>52</sup>

Then there is the same notion present in the following, which the Aruch (s. ערב) attributes to the Jerushalmi: " 'He shall swallow up Death for ever (Is. 25.9)' and it is written (Is. 27.3): 'And it shall be that on that day a blast will be blown on a big shofar etc.' And when Satan hears the sound of the shofar the first time he becomes anxious but not yet alarmed. But when it happens a second time he says: Indeed this is the shofar referred to in the verse (Is. 27.13): 'A blast will be blown on a big shofar.' The time of being swallowed up has come. He starts back and is confounded and has no chance to bring up any charges."<sup>53</sup> Whether the bearings of this legend are eschatological or not, the use of the shofar is obvious, and is strictly in keeping with popular beliefs about its use.

Curious is the legend that even Satan himself is conscious of two series of blasts—one blown in order to observe the commandment of blowing the shofar, the other to announce the advent of the Messiah when Satan's own power will be at an end. The legend is cited by Abudarham (ed. Venice, 1566, p. 93b), and is attributed, as the one above, to the Jerushalmi: "One finds in the Jerushalmi that when they blow the blast the first time he (Satan) is anxious but not yet alarmed; the second time, he trembles and is confused. The first time he thinks: They are merely fulfilling the commandment to blow the shofar. The second time he thinks: It is the shofar of the Messiah; as it is

<sup>52</sup> See Abudarham, ed. Venice, 1566, p. 98b, col. 2: פ'י' למה חוקעין מיושב קודם: מוסף וחזרין וחוקעין על סדר ברכות רבין שעיקרן נחקנו על סדר ברכות כדתנן העובר לפני התיבה ב'ט' של ראש השנה השני מחקיע וכו' אם כן למה מקדימן לחקוע מיושב כדי לעררב את השטן פ'י' כדי שיתערבב מיד בתקיעה ראשונה שלפני התפלה ולא יקטרנו בשעת התפלה . . . ויש מפרשים שמכח ראשונה מתערבב בשניה.

<sup>53</sup> בלע המות לנצח וכתיב והיה ביום ההוא יחקע בשופר גדול וכו' וכי שמע שטן קל שיפוצא וימנא חרא בהיל ולא בהיל וכד תניין ליה אמר ודאי ההוא שופר דיתקע בשופר גדול מטא ומנא כדי לעררב פ'י' Quoted in Tos. s. לעררב. RH. 16b. Kohut in his edition of the Aruch queries the word בירושלמי, I am sure correctly. The passage is often quoted, and generally with many variants. See Kohut, Aruch, part 6, p. 259, and the references given by him in notes 4-7.

said (Is. 27.13): 'And it shall come to pass that on that day a blast will be blown on a big shofar.' And for this reason he is confused, for there will remain no Satan at all in the world; as it is said (Is. 25.9): 'He shall swallow up Death for ever.'<sup>54</sup> Here too is reflected a combination of higher and lower beliefs.

Thus far all the Rabbinical explanations of the use of the shofar that we have considered have concerned themselves with the shofar in the ritual. Yet we see that alongside the more advanced explanations, which are by far more abundant, and which constitute the official explanations throughout the whole subsequent history of the shofar, the popular beliefs persist. Just as the *שופרות*, *זכרונות*, and *מלכויות* remain a part of the ritual, so does the phrase *לערבב השטן*, "to confound Satan," remain throughout.

To take it for granted that the shofar is to be blown because it is a command of God is to say that every man is obligated to blow the shofar.<sup>55</sup> But actually we find that it is sufficient to listen,<sup>56</sup> and that one person who blows the shofar can be the means of having the congregation discharge its obligation.<sup>57</sup> It may be that this is a matter of convenience, just as it is a matter of convenience and expediency to let one person read the Megilla or the Torah for the congregation. But there may be more than this involved. The superstitions of the folk with regard to the efficacy of the sound of the shofar may have caused the Rabbis to try to discourage its actual use as much as possible. One way of tempering the crude folk belief would be to say that all that is necessary is to listen to the sound of the shofar.

But whether or not the Rabbis tried to discourage the use of the shofar, we find that it was used upon a host of occasions

<sup>54</sup> איתא בירושלמי שכשחוקעין פעם ראשונה בהיל ולא בהיל שניה מודעוץ ובהיל ראשונה סבר קיימין מצות תקיעה שניה סבר שופר משיח הוא שנאמר' והיה ביום ההוא יתקע בשופר גדול ומשום הכי בהיל שלא ישאר שום שטן בעולם שנאמר בלע המות לנצח.

<sup>55</sup> RH. iv, 9: כשם ששליח צבור חייב כך כל אחד ואחד חייב. Cf. Rabba's statement in RH. 29b (see note 27).

<sup>56</sup> RH. iii, 7: מיהו עובר אחורי בית הכנסת או שהיה ביתו סמוך לבית הכנסת ושמע: Note the implication of RH. iv, 7: קול שופר או קול מגילה —הנשמע מן המתעסק לא יצא—hence one who hears it blown normally fulfills his obligation.

<sup>57</sup> ר'ג אומר שליח צבור מוציא את הרבים ידי חובתן.

by the people. In some cases it seems to be used merely as a signal, just as it was in Bible times. In other instances, where it appears to be a signal, closer inspection seems to indicate that popular superstitions are really involved. And in still other instances we see that the shofar is clearly associated with demons.

In Shab. 35b there is a long discussion of the use of the shofar Friday evening at sundown. There is a wealth of detail given about the number of blasts and their significance. But nothing seems to reveal more than that the shofar is merely a signal to get the people to give up their tasks, and to usher in the Sabbath.<sup>58</sup> We also find that the shofar is used as a signal by the court or a Rabbi to announce that a thing is prohibited or permitted. AZ. 40a says: "The shofars of Rabba went out and announced that it was prohibited, of R. Huna son of H̄inena, that it was permitted."<sup>59</sup> Here too it seems to be merely a means of making an announcement—though perhaps the fear associated with the shofar may have served to make its use for such a purpose more effective.

In commenting upon a baraita the Gemara (Nidda 38a) states in the name of R. Ada bar Ahaba: "From this it is evident that R. Judah thinks that the shofar was the cause."<sup>60</sup> Rashi comments upon this "The shofar which the court blows at the sanctification of the new moon."<sup>61</sup> The Tosafist explains it the same way. Now, it is possible that in early times the shofar was sounded at the time of the new moon (see p. 198). But the Mishna (RH. ii, 7; iii, 1) says nothing about the use of the shofar on this occasion. It is noteworthy, though, that iii, 1, which deals with the proclamation of the new month, is immediately followed by a statement about shofars: "All shofars are fit for use except neats' shofars."<sup>62</sup> This raises the suspicion that perhaps the shofar

<sup>58</sup> Cf. AZ. 70a. Here too it is possible that the use of the shofar is connected with some of the folk practice that was associated with the original rest-day, which was most likely a taboo day. It requires much thorougher study.

<sup>59</sup> נפק שיפורי דרבא ואסר שיפורי דרב הונא בר חיננא ושרי. Cf. AZ. 57b.

<sup>60</sup> שיפורי דירחא ש"מ קסבר רבי יהודה שיפורא גרים. Aruch reads שיפורי דירחא. Cf. Rabinovicz, *ad loc.* The context is not clear. It seems that the sound of the shofar is supposed to have something to do with the case of pregnancy.

<sup>61</sup> שופר שחוקעין בו ב'ד בקידוש החדש.

<sup>62</sup> כל השופרות כשרין חוץ משל פרה.





the hired mourners express any real grief. Obviously then because the noise and music were intended originally to frighten away the evil spirits. This same idea most likely underlies the story of R. Hamnuna. The sound of the shofar was originally intended to frighten off the evil spirits.<sup>67</sup>

The shofar is also referred to as being used in connection with the ban, or excommunication. San. 7b states of R. Huna: "When he used to go to try a case, he would say: Bring me my work-tools—rod, strap, shofar, and sandal."<sup>68</sup> Rashi explains that the shofar is for excommunication and ban.<sup>69</sup> MK. 16b reports the

<sup>67</sup> Hints of the presence of demons and evil spirits at funerals, and of their being driven off, are found often in Rabbinic literature. For instance, MK. iii, 8 says, with reference to the procession at the bier: נשים במועד מענות אבל לא: מטפחות רבי ישמעאל אומר הסמוכות למטה מטפחות. Clapping the hands frightens the demons away. However, the anonymous Mishna prohibits this on ḥol hamoed. The chanting, which also scares them off, is however allowed. But R. Ishmael allows those near the bier to clap the hands on ḥol hamoed. What is at the bottom of this? Obviously the idea that immediately near the bier the danger of evil spirits is greatest.

Many other funeral customs show what was in the popular mind. Deut. 14.1 forbids the making of incisions in the body, and of tearing the hair out from between the eyes at a death. Lev. 21.5 forbids the priests to make their heads bald, to make incisions in the body, and to shave off the corners of the beard. Several passages in the Bible refer to baldness as a symbol of mourning. e.g. Is. 15.2; 22.12. The use of sackcloth, dust, and ashes is well known. The original purpose of all these customs seems to be to disguise the person so that when the spirit of the deceased comes to take his soul along, or to harm him, he will not be recognized. Tearing the garments must have had the same significance. Of course baldness and mutilation may have originally been a sacrifice of part of one's body, in place of the whole of it, to the spirits of the dead.

It is a custom among orthodox Jews not to look into a mirror during the seven days that immediately follow the burial. This is usually thought to be a denial of pleasure to the mourner. But the notion that the soul is identified with the image of a person is a common one. Hence when one looks into a mirror at such a critical time, his soul is exposed, and it is very easy for the spirit of the dead person to take his soul away with it. See Frazer, *Taboo and the Perils of the Soul*, part ii of *The Golden Bough*, pp. 77–100, especially pp. 94–95. Contrast Jastrow, *Dust, Earth and Ashes as Symbols of Mourning among the Ancient Hebrews*, *JAOS*, vol. xx, 1, pp. 130–150; *The Tearing of Garments as a Symbol of Mourning*, *JAOS*, vol. xxi, pp. 23–39.

כי הוה נפק לדינא אמר הכי אפיקו לי מאני חנותאי מקל ורצועה ושופרא וסנדל<sup>68</sup>

שמתא ונדר<sup>69</sup>. Cf. MK. 16a, 17b.

following legend in the name of Ulla: "Barak excommunicated Meroz with four hundred shofars."<sup>70</sup> Just what is the connection between the shofar and the ban? Perhaps it was used merely to announce it. Or perhaps the ban was regarded as the death of the person,<sup>71</sup> and the shofar, which is used at funerals, is appropriate. But most likely it is the belief that the person is surrounded by evil influences or spirits, or that evil spirits are present; and these evils are to be driven off by the shofar.<sup>72</sup>

In Taan. i, 6 we find the following with reference to the fast days that are decreed because of the failure of rain to come: "If these fast-days have passed without the people's being answered, the court decrees seven other fast-days, making a total of thirteen congregational fast-days. In this respect are these severer than the first—that on these they sound the alarm, and close the bath-houses."<sup>73</sup> It is not absolutely certain that מתריעין, "sound the alarm" refers to the use of the shofar,<sup>74</sup> but if we compare this Mishna with Taan. iv, 7, we will find that it most likely does. There the Mishna says: "For the following one sounds the alarm on the Sabbath," על אלו מתריעין בשבת. If מתריעין merely meant to cry out or make noise, would it have

<sup>70</sup> בארבע מאה שיפורי שמתיה ברק למרוז. Cf. also Sheb. 36a.

<sup>71</sup> Cf. MK. 17a: מאי שמחא אמר רב שם מיתא. "What is the ban? Said Rab: It means: There's a death there."

<sup>72</sup> MK. 17a tells the following story of R. Joseph, in which the shofar is connected with the ban, and in some peculiar way, with death: והוא אלמא דהוה קא מצער ליה להווא צורבא מרבנן אתא לקמיה דרב יוסף א'ל זיל שמתיה א'ל מסתפינא מיניה א'ל שקילו פתיחא עליה כל שכן דמסתפינא מיניה א'ל שקליה אחתיה בכדא ואחתיה בי קברי וקרי ביה אלפא שיפורי בארבעין יומין אזל עבד הכי פקע כדא ומית. Not all the details of the story are clear, but it seems that the shofar is blown over the warrant of the ban; ultimately the person dies.

The expression קרי ביה אלפא שיפורי is strange. Rashi explains it כלומר חקע ביה אלפא שיפורי that is, 1000 blasts were blown into the pitcher; קרי is surely unusual in this sense. Perhaps שפורי = שופרות not in the sense of horn, but of Bible verses mentioning the shofar (see p. 215; RH. iv, 5, 6). The verses would then be used as a charm. But this is a mere suggestion.

The question of the Gemara which follows: מאי שופרא and the answer: מנו שופרעין ממנו would indicate that the use of the shofar was a means of causing a person harm.

<sup>73</sup> עברו אלו ולא נענו בית דין נזריין עליהן עוד שבע שהן שלש עשרה תעניות על הציבור הרי אלו יחרתו על הראשונות שבאלו מתריעין ונועלין את המרחצאות.

<sup>74</sup> Cf. Taan. 14a. R. Judah makes it refer to the shofar.

been necessary for the Mishna to state that one may cry out on the Sabbath, especially in the face of danger? However it is forbidden, or not customary, to blow the shofar on the Sabbath (see note 29); and that is why the Mishna is here giving permission to blow it on the Sabbath. Consequently מחריעין, "sound the alarm" in Taan. i, 9 must also involve the use of the shofar. Now, just why is the shofar used on such an occasion? Rationalistic explanation would say that the people have sinned, and that is why the rain is held up;<sup>75</sup> the shofar, therefore, because of its association with sin and repentance, reminds the people of their errors and induces them to repent. Or it reminds God of the plight of the people. But let us go beyond this. To the primitive mind a phenomenon like the absence of rain is caused by some adverse power who is either preventing the rain from falling or keeping the rain god from exercising his functions. Originally, then, the function of the shofar in times of drought may have been to frighten off this adverse power.

In addition to its being used when there is drought it is used, especially in connection with fasting, on other calamities. Taan. iii, 4 mentions the plague and the falling of buildings; 5 mentions blasting of grain and mildew, locusts, wild beasts, armies; 7 allows the shofar to be blown on the Sabbath when a city is surrounded by non-Jews, when it is flooded, and when a ship founders;<sup>76</sup> 8 states that the shofar is blown for any calamity that may come.<sup>77</sup> In these instances it can be assumed that its sound is a signal for help or to remind God of the plight of the people and that it originally was used in order to scare off the evil powers that were supposed to be causing these calamities.

In RH. 28a, after a discussion of whether or not religious practices require intent on the part of the one who performs them before he can be considered as having fulfilled his obligation and the conclusion that they do not, there is a remark of Rabba:

<sup>75</sup> See Deut. 11.16-17.

<sup>76</sup> R. Jose allows it to be blown on the Sabbath when its sound may bring help, but not when it is merely a means of crying out in distress (לעזרה ולא לצעקה).

<sup>77</sup> שלא תבוא על הציבור is euphemistic. See Malter's edition and translation of Ta'anit, Philadelphia 1928, p. 135 and note 283.

יצא, that is that anyone who blows the shofar merely as a musical instrument is considered as though he had fulfilled the obligation of blowing the shofar which is incumbent upon him. Rashi's comment on the phrase להחוקע לשיר is that, though it refers to the use of the shofar as a musical instrument, he also found a reading שד, demon instead of שיר song, and that the purpose was to drive off an evil spirit.<sup>78</sup> Rabbinovicz here as well as in the other instances where the phrase occurs (RH. 28b, 33b) gives the reading שיד, demon. Thus we see clearly that the shofar was used to drive away a demon. And not only this, but even when one makes use of the shofar for this purpose he has, according to Rabba, fulfilled the religious duty of blowing the shofar. This is truly striking.

Finally, Hul. 105b relates the following which is supposed to have happened in the time of Mar bar R. Ashi: "Some porters who were carrying a jug of wine felt like taking a breathing-spell. They set the jug down under a rain-spout, and it fell to pieces. They came to Mar bar R. Ashi. He brought out a shofar, and drove him away."<sup>79</sup> Here we are plainly told that the demon who broke the jug was driven away by the sound of the shofar.

#### SUMMARY

Let us now briefly review the results of our inquiries and speculations. The shofar, from its earliest times, has been intimately connected with the life of the people. The outstanding associations connected with it have been those of fear. Thus it was efficacious in driving away evil spirits and forces. It was used on the original new year's day, the 10th, the day of the fall equinox, in a noise-making ceremony to drive away evils, probably those that hindered the rising of the sun. When the new year's day was transferred from the 10th to the 1st, the noise-making ceremonies were at first not transferred. Officially the 10th became the Day of Atonement, and the use of the shofar was no longer part of

לשורר ולומר כך שמעתי מפי מורי הזקן וביסודו של מורי ר' יצחק בן יהודה דאיתי<sup>78</sup> החוקע לשד להכריח רוח רעה מעליו.

הנהו שקולאי דהוו דרי חביתא דחמרא בעו לאתפוחי אותבוה תותי מרזיבא פקעה אתו<sup>79</sup> לקמיה דמר בר רב אשי אפיק שיפורי שמחיה.



the day's ritual. But the popular use of the shofar on the 10th must still have continued, for in post-Talmudic times we find that it has become an established part of the Day of Atonement ritual. As for the new new year's day, the 1st, the noise-making ceremonies, because of popular pressure, eventually became part of the official ritual of the day. However, in so far as they were produced by a horn, it was the *ḥazōzera*, the priestly horn, that was used officially. Yet the popular shofar already by the time of the Mishna appears officially in the new year's ritual beside the *ḥazōzera*. With the destruction of the temple the *ḥazōzera* disappears, and only the shofar is used on Rosh Hashana. Thus we see a phase of the struggle between priestly and popular forces, with the ultimate triumph of the popular forces. But the Rabbis, in their explanations of the use of the shofar on Rosh Hashana, almost completely gloss over its original purpose. Yet the popular belief about it, that it is a means of driving off demons, persists even as an explanation of its use in the Rosh Hashana ritual. In many of the other uses of the shofar there is a trace of this belief or a direct reference to it. Thus we see the struggle between the more advanced ideas of the Rabbis and the more primitive ideas of the people. This struggle continues throughout the whole history of the shofar.

A consideration of this, however, will be reserved for the future.

## A HEBREW BIBLE MS. IN THE HEBREW UNION COLLEGE LIBRARY\*

SHELDON H. BLANK, Hebrew Union College, Cincinnati, Ohio

THE object of this study is a Hebrew Bible MS., as yet unnumbered, in the Hebrew Union College Library in Cincinnati. The MS. is bound as a book with the pages numbered in pencil. There are 222 leaves consisting of the following books (the numbers are the folios upon which each book begins): Isa. (2a), Ezek. (34a), Hos. (70a), Joel (74b), Amos (76b), Obad. (80a), Jonah (80b), Mic. (82a), Nah. (84b), Hab. (86a), Zeph. (87a), Hag. (88b), Zech. (90a), Mal. (96a), Ruth (98a), Ps. (100a), Prov. (131a), Cant. (141b), Eccles. (144a), Lam. (149a), Job (151a), Dan. (164a), Esther (174b), Ezra and Neh. (179b), Chron. (195a). There is no break between Ezra and Neh. or between 1 and 2 Chron. One leaf, between 208 and 209, containing 1 Chron. 20.8-22.8, and one between 216 and 217, containing 2 Chron. 6.34-8.6, have been torn out. The book ends with 2 Chron. 19.11. Fol. 1 is a decorated sheet containing Masorah and Psalm verses in arabesques and is not an original part of the MS. It is attached by one thread and was not bound originally with the rest of the book.

The text is in two columns, twenty-nine lines to a column, four or five words to a line, and occupies a space 17 x 12 cm. It is provided with Masorah magna and parva, the Masorah magna occupying three lines at the top and four at the bottom of each page. The Masorah magna is frequently written in arabesques (stars, circles, candelabra, dragons, fish, etc.).

The book is bound in quires of four sheets folded to form eight leaves (16 pages) and catchwords appear at the end of all quires except the one which concludes the Latter Prophets.

\* An abstract of this paper was read before the Eighteenth International Congress of Orientalists in Leyden, September, 1931.

The last page of this quire also has the appearance of the last page of a book and the codex thus consists of two parts, the first containing the Latter Prophets and the second the Hagiographa, originally two separate volumes, now bound as one. The ink, the parchment, and the decorations in the two parts differ somewhat but they were doubtless intended from the beginning to go together because they agree in other details of form and seem to come from one hand.

The first part now consists of 96 leaves, twelve complete quires of 8 leaves each, the second part of 125 leaves, fourteen complete and two incomplete quires. One leaf, the last (between 208 and 209), is missing from the fourteenth quire and the first (between 216 and 217) and last leaf, the outside folded sheet, are missing from the last quire of this second part. The missing chapters at the end would require an additional quire and a half which they would just fill, according to the ratio of manuscript and print pages. Originally then the Hagiographa comprised  $17\frac{1}{2}$  quires or 140 leaves. The first part is complete as it stands except that we miss Jeremiah after Isaiah. Jeremiah, however, did not *follow* Isaiah in this MS. since Ezekiel immediately follows Isaiah in the same column with only the usual six line break. Jeremiah must have preceded Isaiah in accordance with the Talmudic order followed by many MSS. Isaiah seems to begin a quire being preceded only by a date line. But a closer scrutiny shows that about five and a half lines have been erased at the top of this first page along with the Masorah belonging to them. It is still possible to discern a 'ל in the margin and traces of חיי, the last word of Jeremiah. By the same ratio as above Jeremiah would have occupied five complete quires and this first part then contained 17 quires or 136 leaves, and the two almost equal parts 276 leaves in all, of which 221 are contained in the present volume.

Twelve additional leaves from these two parts of this MS. are in Leningrad and go to make up the MS. catalogued as No. 112 in the *Catalog der hebräischen Bibelhandschriften der kaiserlichen öffentlichen Bibliothek in St. Petersburg* (Harkavy and Strack, St. Petersburg, 1875). Of these twelve, ten leaves are from Jeremiah as follows: 14.2-17.2 (fols. 15, 16), 23.8-25.21

(fols. 17, 18), 44.14–46.6 (fol. 19), 48.9–51.28 (fols. 20–23), 52.2–52.32 (fol. 24). Since traces of Jer. 52.33f.—the last verses of Jeremiah — can still be discerned on our MS., since, moreover, the page of the Leningrad MS. which ends with Jer. 52.32 contains the first word of the following page showing that it ended a quire, and since in our MS. Jer. 52.33 begins a new quire as noted above, the two make a perfect join at this end. The Leningrad MS. also contains two leaves from Chronicles which followed on the last pages of our MS. The fragments are 2 Chron. 21.1–23.6 (fol. 25) and 31.18–32.33 (fol. 26). Only one leaf intervened between the end of our MS. and the first of these fragments.

But originally the MS. contained more parts than just these two. In addition to the fragments from Jeremiah and Chronicles the Leningrad MS. contains fourteen leaves from the books of Kings two of which (fols. 3 and 5) are described as No. B. 19 in the *Prospectus der der Odessaer Gesellschaft für Geschichte und Alterthümer gehörenden ältesten hebräischen und rabbinischen Manuscripte*, Dr. E. M. Pinner, Odessa, 1845. The existence of these fragments from an earlier book shows that the MS. was not originally limited to the Latter Prophets and the Hagiographa but consisted of one more part at least if not of two, containing the Former Prophets and possibly the Pentateuch. The fragments from Kings are 1 K. 8.59–9.23 (fol. 1), 15.18–16.14 (fol. 2), 2 K. 3.3–4.8a (fol. 3), 4.18–4.37 (fol. 4), 8.9–9.14 (fol. 5), 10.7–19.29 (fols. 6–14). The detailed descriptions of the Leningrad MS. by Harkavy and Strack and by Pinner agree in every particular with that of our MS.

Concerning the origin of the Leningrad MS. the following note appears in the *Catalog* of Harkavy and Strack, p. 150: "Blatt 3.5 sind der von Pinner, Prospectus B 19 (S. 49.50) beschriebene Codex, den (nur die beiden Blätter?) Firkowitsch, laut einer handschriftlichen Bemerkung in seinem Exemplar des Prosp., in Kafa gefunden haben will." According to Firkovich's note, then, the MS. of which the two leaves are only a fragment was procured by him in Kaffa (the modern Theodosia) in the Crimea. Notes in Tataric (?) in Hebrew characters on the margin of fols. 3b, 5b, 149b, and 150a do suggest that the MS. was in

the Crimea at one time.<sup>1</sup> The MS. was bought by the Hebrew Union College Library from a book dealer in England a few years ago. A note pasted onto the front cover contains the information that the MS. was bought from Köhler, a dealer in old books, in Leipzig in 1867 and brought to the Allen Library in England.

Another circumstance appears to point in the direction of Firkovich. It is strange to find the date of the MS. in its present position, at the beginning of the book of Isaiah, particularly since, as we have seen not only Jeremiah but other parts of the Bible preceded. The strangeness increases when we look at the form of the inscription: 'סליק בשנ' ארבעת אלפי' ושמונה מאות וששים ליציר', "completed in the year four thousand and eight hundred and sixty of the creation" (4860 = 1100 C.E.). The odd thing is to find the date of the *completion* of the MS. in the middle of the book. A closer examination of the inscription however removes all doubt because there are distinct signs of retouching of certain letters (notably those in ארבעת, ושמונה and ליציר') with darker ink and by a different hand (note the end-strokes in the א). The inscription originally read something like this: ס"פ של ירמיהו אלף ושלש מאות וששים וחמשה and told the number of verses in the preceding book of Jeremiah. Such summaries are to be found at the end of the books of Ezek., the Minor Prophets, Ruth, Ps., Prov., Cant., Eccl., Job, Dan. and Ezra-Neh. in the MS. as at present. Now this type of falsification is found in another MS. which passed

<sup>1</sup> The front cover itself contains the following notes in Polish script:

1) Najdawniejszy Kodex jest z roku 4866 (1106) w Londynie (w 2. tomie Wolfii Bibliotheca), "The very oldest Kodex is from the year 4866 (1106) in London (Vol. 2 of the Wolfii Bibliotheca)."

2) w Jerusolimie u Abrahama Karaity jest Biblia bardzo dawna, "Abraham, the Karaite, in Jerusalem has a very old Bible."

3) Rękopism zawierający pismo święte, "The holy writing is authenticated by the handwriting (epigraph?)."

The reference to the *Wolfii Bibliotheca* probably intends not the oldest MS. mentioned there but the *first* in the list (p. 294). (2) and (3) are in a different handwriting from (1). The reference to Abraham the Karaite may well be to Abraham Firkovich. The appearance of our MS. in Germany in 1867 agrees with this supposition. The person who seems to refer to him in the note may have been an intermediary between him and the German dealers.



through the hands of Abraham Firkovich. In Cod. 55a in Harkavy and Strack's *Catalog* (p. 83, Epigraph 24) the following words appear at the end of the book of Numbers: נשלם ש' אלף ומאתים, "Vollendet im Jahre 1200 der Seleucidenära, hier in der grossen Stadt Anapa (Gott schütze sie beim Morgenanbruch!)." The number of verses in the Book of Numbers was altered to produce this epigraph. A similar method whereby something different is altered into a date is mentioned in Harkavy-Strack in the old Epigraph to Roll 7 (note particularly the change of כוהר into ליצירה).

Compared with published facsimiles the MS.<sup>1a</sup> most resembles the British Museum MS. Add. 21161 (No. 7 in Ginsburg's Bible edition) of which a good facsimile appears in Kahle's *Masoreten des Westens*, part II (Stuttgart, 1930), plate 14. The general appearance of the writing as well as the shape of the single letters is duplicated in this MS., which, like the HUC MS., uses extended letters and fragmentary words to make the left margin even. Further evidence that the consonant text of the HUC MS. is related to the consonant text of this MS. will be noted later. This Brit. Mus. MS. Add. 21161, which possesses great interest as one of the few longer MSS. assigned by Kahle<sup>2</sup> to the ben Naftali group, is placed by Ginsburg<sup>3</sup> and by Margoliouth<sup>4</sup> in the middle of the 12th century. But we are not able to assign so early a date to the HUC MS. particularly when we notice the appearance of the Masorah. Ornamental Masorah is usually taken as an indication that a MS. belongs to the 13th or 14th century, and, to judge by the ruling, the Masorah was intended from the first to accompany the text. The question as to the date will be treated more fully below.

The order of the Hagiographa in our MS. (Ruth, Ps., Prov., Cant., Eccl., Lam., Job, Dan., Esther, Ezra-Neh., Chron.) is peculiar, not so much because the Megillot are divided with Ruth before Ps. and Esther after Dan. (as far as the Megillot are concerned the order in our MS. corresponds to the order

<sup>1a</sup> See facsimile p. 235 below.

<sup>2</sup> *Masoreten des Westens*, II, pp. 53\*ff.

<sup>3</sup> *Introd. to the Massoretico-Critical Edition of the Hebrew Bible*, pp. 632ff.

<sup>4</sup> *Catalogue of Hebrew and Samaritan MSS. in the British Museum*, I, p. 82.

described in the Talmud — B.B. 15a slightly modified according to Ber. 57b)<sup>s</sup> as because Job is separated from Ps. and Prov. as in the Septuagint. Perhaps it was felt that in the more usual position Job interrupted between the books associated with David's name (Ruth and Ps.) and those associated with the name of his son Solomon (Prov., Eccl. and Cant.). Its position after the כתובים קטנים and before the historical books (Dan., Esther, Ezra-Neh. and Chron.) may have been thought more logical. If those who gave the book of Job the position it occupies in our MS. had in mind the tradition that Job was among the returning exiles (B.B. 15a: **איוב מעולי גולה**) they may have meant thus to place the book in its proper position chronologically as well — after Lam. and before Dan., the one traditionally written by Jeremiah and the other by the men of the Great Synagogue (*loc. cit.*). Whatever the logic in this position may be it represents an order common for the LXX but not for Hebrew MSS.

A similar order with Job along with Dan. and Esth. occurs in Cod. XII of the *Assemanus Bibliothecae Apostolicae Vaticanae Codicum Manuscriptorum Catalogus*, (Rome, 1756, Part 1, Vol. I) an early 14th cent. MS. written in Syria. It is immaterial that here the order is Esther, Job, Dan. and in our MS. Job, Dan., Esther.

Notes in the margin indicate the beginning and end of all the haftarot. The ink and the handwriting are different from those of the text and of the Masorah, and the notes represent a later addition to the book. In some cases where the ritual of the Ashkenazim differs from the ritual of the Sephardim the notes follow the Ashkenazic ritual (haftarot begin with Isa. 27.6, 55.6, Hos. 12.13 and Amos 9.7). In some cases they follow the ritual of the Sephardim or of the "others" (haftarot begin with Ezek. 37.1 and 45.18). In some cases they do not follow any recognized ritual (haftarot begin with Ezek. 29.1, Joel 2.11 and Hab. 3.1; the haftarah beginning with Hos. 14.2 is not marked). Although the divergence is in no case great the haftarot can not

<sup>s</sup> B.B. 15a: **סידרון של כתובים רות וספר תהלים ואיוב ומשלי קהל שיר השירים וקינוח** שלשה כתובים קטנים הם... שיר השירים... Ber. 57b: **דניאל ומנח אסתר עזרא ודברי הימים קהל** — with Cant. before Eccl. as in our MS.

וַיִּחַר רָעָה וּשְׂפִילָה וְרָעָה וְרָעָה  
יַעֲבֹד וְחָלַב אִמִּית עֲלֵיהֶם  
יִהְיֶה פֶּתֶחַ  
וְהָיָה רָעָה יִהְיֶה אֵלֵי לֹאמְרוֹ  
אֵלֵם שׁוֹמֵר פֶּתֶחַ אֲדֹמָיִם יִשְׁמְרוּ  
וְהִצֵּאתָ אֵלֵיהֶם וְאָמַרְתָּ הֲרִי  
יִשְׂרָאֵל שְׂמִי וְכִי אֲרֹנִי הָיָה  
לְחַיִּים וְרַעְיוֹת לְאֵם יָדִיכָּם וְכִי  
וְרַעְיוֹת הֵנּוּ אֵלֵי מִכָּא עֲלֵיהֶם  
חָרַב וְאָמַרְתָּ פֶּתֶחַכֶּם וְנִשְׁמְרוּ  
מִזְמֹתֵיהֶם וְעֲשִׂיתָ חֲמִיכִים  
וְהִמְלִיתָ לָהֶם לִפְנֵי אֲדֹמָיִם  
וְכִתְּבָה אֶת סֻרְיָכֶם יִשְׂרָאֵל  
לִפְנֵי גִילְיָדִים וְדִיִּילֵי אֶת עֵינֵם  
עַנְיֹתֵיכֶם כִּינֹת מִזְמֹתֵיכֶם  
כָּל מִשְׁחֵיכֶם תִּעְרִיב תְּחַנְּנֶה  
וְהַמְּוִתֶה שְׂמִי לִמְעַן יִחַרְצֶנּוּ  
וְיִאשְׁכְּבוּ מִזְבְּחֵיכֶם וְנִשְׁמְרוּ  
וְנִשְׁכְּתִי גִילְיָדִים וְנִצְדָּעוּ חֲמִי  
חֲמִינִים וְנִצְדָּעוּ מִשְׁעֵיכֶם  
וְכִי חָלַל פֶּתֶחְכֶּם וְיִרְעַתְכֶם כִּי  
אֵלֵי יִהְיֶה וְהִצֵּאתָ פֶּתֶחַיִךְ לָכֶם  
כִּי טִיִּיתָ אֶת פֶּתֶחַיִךְ  
פֶּתֶחַיִךְ וְנִצְדָּעוּ מִשְׁעֵיכֶם אֲלֵי  
נִצְדָּעוּ אֲשֶׁר נִשְׁמְרוּ שֵׁם אֲשֶׁר  
נִשְׁמְרָה אֶת לָכֶם הִרְדָּה אֲשֶׁר  
כָּל מִעֲלֵי וְהָיָה עֵינֵיהֶם הִיזְיוֹת  
אֲחֵרִי גִלְיָדִים וְכָל מִשְׁחֵיכֶם  
לִלְחָמָה אֲשֶׁר עָשׂוּ לָכֶם

[illegible][illegible]

be said to correspond to those of either the Ashkenazic or the Sephardic ritual but are to a certain extent independent of both of these systems.

As to the orthography. The writing is fairly clear. The letters lean slightly to the left and are rounded. It is frequently difficult to distinguish  $\aleph$  and  $\daleth$  or  $\beth$  and  $\gimel$ . A  $\dot{y}$  is frequently as long as a  $\dot{v}$  and a  $\eta$  almost closed like a  $\pi$ . The  $\zeta$  is written in two parts and resembles  $\gamma$ . The final letters  $\aleph$ ,  $\daleth$ ,  $\eta$  and  $\gamma$  extend only a very little below the line so that the vowel is placed under instead of after the letter. In order to make the left margin even extended letters are employed but only to a limited degree. Commonly the line is filled out with the first letters of the word which begins the next line.

The vowels and the Masorah were added by a second scribe who also took occasion to make many alterations in the text. His alterations frequently concern the plene or defective writing of *vav* and *yod*. Very often he inserts one of these letters between, above or even within and below other letters, or crosses out or partly erases one of them and joins it to the letter preceding. There are a number of peculiarities with regard to the vowel signs: The *ḥamez ḥaṭuf* is written like a *ḥaṭef ḥamez* (ח). The name  $\text{יהוה}$  is written with no *holem* over the *vav*. Frequently a *zere* appears where we expect a *segol* and a *pataḥ* in place of a *ḥamez*. The *mappiḳ* is written under the *he* instead of within it. The dot distinguishing the *sin* from the *šin* is written near the middle shank. When a consonant is repeated the first has a *ḥaṭef pataḥ* in place of a *šewa* (ששׁוּ). Certain of these peculiarities in punctuation are characteristic also of a group of MSS. now assigned to the ben Naftali tradition (cf. Kahle, *Masoreten des Westens*, II (1930), pp. 57\*ff.) — notably the *mappiḳ* under the *he*, the confusion of *ḥamez* and *pataḥ* and *zere* and *segol*, and the writing of *ḥaṭef ḥamez* for *ḥamez ḥaṭuf*.

The MS. is extensive and the problems involved complicated. The more intensive study of the MS. is here limited to a part of it only — to the seventy-five chapters including Isa. 1–27, Ezek. 1–25, Hosea complete and Amos complete.

It has been observed that the vowels and the Masorah were added to the original consonant text by a scribe with a different

tradition who frequently altered the original text erasing or crossing out, altering or adding letters and words. We therefore have the consonant text in two forms — (1) as it left the hands of the first scribe and (2) as altered by the scribe who added the vowels and Masorah. It is usually not difficult to recognize the original of an altered word particularly since most of these words occur as variants in Kennicott, de Rossi, or Ginsburg.

The alterations made by the second scribe usually, though not always, had the effect of bringing the text into agreement with that of our printed Bibles — or at least with the text of the Ginsburg second edition which I used for the comparison. In the seventy-five chapters which I collated I found only twenty cases out of two or three hundred where a word originally agreed with the printed text and was altered so as to disagree. These alterations should be of help to us in determining what MSS. agree with that used by the second scribe but as a matter of fact their evidence is very uncertain. The altered forms more frequently agree with Ginsburg 5, 11, 17, 22 and 43 and Kenn. 176, 168 and 210, than with other MSS. but with none of these sufficiently often to permit of any conclusions.

It has been noted above (p. 236) that the second scribe was influenced by the ben Naftali tradition in that he employed certain peculiarities in vocalization now regarded as characteristic of this tradition. Aside from these general differences the following variants in the setting of *vowels* are of interest (I omit a few which are apparently due to carelessness and the many which depend upon the aforementioned characteristic interchange of *kamez* and *patah*, and *zere* and *segol*, the use of *hatef kamez* for *kamez hatef*, and of a *hatef patah* in forms like עִזְלִיָּהֶם):

Isaiah:

5. 4: מְהִלְעִשׂוֹת for מְהִלְעִשׂוֹת — a possible form, cf. Ges.-K. § 37 e, f.
- 5.29: כְּלָבִיא — without the article — the following כְּבָבִידִים has the article.
7. 3: תַּעֲלֶה from תַּעֲלֶה after the analogy of אֶדְמָה from אֶדְמָה and וַעֲקֶה from וַעֲקֶה.



- 7.25 and 22.24 twice: וְכַל with *maḳef* for וְכָל (so twelve Ginsburg MSS. in the first case, six in the second, none in the third).
10. 7: יִרְמָה — *kal* for pi'el — unusual conjugation for meaning required.
15. 2: לְבָבִי — with the article — not an improvement.
16. 7: תִּרְשָׁת — with *šin* — so eleven Ginsburg MSS.
18. 2: בְּכָלִי — singular — with three de Rossi MSS. — not an improvement.
- 22.10: וְתִתְּצוּ — examples of the omission of a *dageš* in *begadkefat* letters having a *šewa* as in וְתִתְּצוּ, the form in the printed editions, are rare — (cf. Ges.-K. § 20 m) the MS. retains the *dageš*.
- 22.19: וְהִדְּתִיךְ — anomalous.
- 23.11: קָצְוִינָה for קָצְוִינָה — the punctuator intends to omit the vowel letter and to read *ḵamez ḵaṭuf* which is the equivalent of a *ḵubbuz*.
- 23.14: קָצְוִבֵּן — *dageš* omitted in letter with *šewa*.
- 25.11: וְתִרְשָׁת — *kal* for pi'el — equally good.
27. 8: בְּקִטְמָה — the printed form with the *dageš* is hard.

Ezekiel:

2. 5: וַיִּדְעוּ — with *vav* conjunctive instead of *vav* consecutive, equally good.
4. 3: בְּמִצּוֹר — without article; so in six Ginsburg MSS. — equally good.
- 4.11: בְּמִשְׁוֹרָה — with the article — so six Ginsburg MSS. — equally good.
- 4.12: תִּקְנֶנָּה — so in two Ginsburg MSS. — actually the ben Ḥayim reading.
7. 2: 'atnah with בָּא — gives different sense — more in accord with ancient versions.
- 7.14: בְּחִקּוֹץ — without article; equally good.

- 7.17: תִּרְפֶּנָּה — pi'el for *kal* — not an improvement.
8. 2: הַחֲשֵׁמְלָה — the *dageš* is natural after the short vowel (Ges.-K. § 26 h).
9. 2: לְבוֹשׁ — equally good — 9.3: הַלְבוֹשׁ — construct with article.
9. 4: הַנְּעֻשׂוֹת — equally good.
10. 8: 'atnah with אָדָם — no difference.
- 10.22: 'atnah with בָּדָר — not an improvement.
11. 6: הַרְבִּיתִּים — equally good.
- 11.24: בְּמִרְאָה — without the article — better.
- 11.25: הַרְאֵנִי — equally good.
13. 5: בְּפִרְצוֹת — without the article — equally good — LXX: ἐν στερεώματι.
- 13.12: יֵאָמַר — *kal* for nif'al — not an improvement.
- 13.13: וּבִקְצֵתִי — *kal* for pi'el — equally good.
- 13.13: לְכַלָּה — infinitive construct in place of noun — equally good — for form cf. 2 Ch. 24.10, 31.1, Dan. 9.24.
- 13.15: וְכִלְיָי — equally good.
- 13.19: תִּחְיֶינָה — pi'el for *kal* (the *zere* for *segol* is characteristic of the MS.) — probably an erroneous continuation of the conjugation of the preceding לְחַיֹּת.
- 14.11: וְתִקְמָו — possibly intended for nif'al instead of hitpa'el — or merely *kamez* for *patah* as frequently — nif'al equally good.
- 16.10: וְאֶנְעִלָךְ — so in eleven Ginsburg MSS. — justifiable — cf. Ges.-K. § 60c.
17. 7: תִּשְׁעָה — probably erroneous.
- 17.14: לְעִקְרָהּ — so in eight Ginsburg MSS.; a possible form — the lengthened infinitive.
- 17.24: שָׁפַל — ordinarily שָׁפַל.
- 18.8, 13: בְּנֶשֶׁךְ — without the article — equally good, cf. Lev. 25.37, Ps. 15.5, Prov. 28.8.

19. 9: בקצרוֹ — so in ten Ginsburg MSS. and in the ben Ḥayim text — cf. also Isa. 29.7.
- 20.16: הִלֵּךְ — perfect for participle — unlikely with present word order: the LXX read לִבָּם הִלְכוּ.
- 20.26: וְאַתָּמָא but the *pataḥ* is over an erasure — originally probably וְאַתָּמָא קַל for pi'el — unlikely.
- 20.36: אֶתְקַם — probably an error — so in one de Rossi MS.
- 20.42: דִּקְבִּיאִי — probably an error.
21. 8: אֵלֶיךָ — for feminine — erroneous.
- 22.20: אֶתְקַבֵּץ — pi'el for קַל — so in ten de Rossi MSS. — equally good.
23. 5: וְתַעֲנֵב for וְתַעֲנֵב, with fifteen Ginsburg MSS. — a logical form.
- 22.26: קִרְשִׁי — for plural (the *ḥaṭef ḵamez* for *ḵamez ḥaṭuf* is characteristic of the MS.) — the singular is possible but gives a different meaning.
- 23.34: קִרְשִׁיהָ — with six Ginsburg Mss. — as if from קִרְשִׁי with unchangeable *ḵamez* — probably erroneous.
- 24.13: הִטְפֵּאֵל hitpa'el for קַל — equally good, but קַל in same verse.
- 24.21: מְקַדְּשִׁי — pl. const. for sg. with 1 p. sg. suffix — probably erroneous.

#### Hosea:

6. 3: בְּמִלְקוֹשׁ — with article — possible — probably influenced by preceding בְּנִשְׁמָ.
7. 5: הִחֲלוּ (with the *dageš* subsequently erased [?]) — hif'il of חָלַל for קַל of חָלָה — with three Ginsburg MSS. (24, 40, 58) and Targ., LXX, Syr. and Vulg.
- 10.14: אֶרְבָּאֵל with *dageš* — so thirteen Ginsburg MSS.
- 10.15 and Amos 4.4: בֵּית אֵל two words — so seven Ginsburg MSS. and the Ma'arbai.

11. 4: בְּהַבְלִי — with *segol* originally, subsequently altered to *pataḥ* — both forms are used.

14.10: וַיִּדְעֻם for וַיִּדְעֻם — the *zere* with the prefix is shortened as though merely tone-long, against Ges.-K. § 69b, footnote.

Amos:

1. 5: עָם for עָם apparently erroneous.

2.3 and 9.1: אֶהְרֹו — anomalous unless we may compare the hif'il הִעֲבִירָה (Jos. 7.7) and הִעֲלָה (Job 1.15) for <sup>ו</sup>ִֿֿֿ; but the form occurs in the MS. in two distinct passages — therefore not a slip.

The MS. frequently substitutes a *ḥatef* vowel for a simple *šewa* under a guttural:

Isa. 4.6: וְלִמְחֶסֶה, 7.11: הֶעֱמָס (with nine Ginsburg MSS.) and Hos. 5.2: הֶעֱמִיקוּ (with nine Ginsburg MSS. — not the same nine), Isa. 21.13: בְּעָרָב twice (with five Ginsburg MSS.), Isa. 24.6 and Ezek. 6.6: וַיֵּאָשְׁמוּ, Hos. 10.2: יֵאָשְׁמוּ (with six Ginsburg MSS.) and Hos. 4.15: יֵאָשֶׁם (with four Ginsburg MSS.), Ezek. 22.26: הֶעֱלִימוּ (with four Ginsburg MSS.), 24.17: תִּעֲצָה (with nine Ginsburg MSS.) and 24.22: תִּעֲצֻ (with fourteen Ginsburg MSS.), Hos. 1.9: אֶהְיֶה (with six Ginsburg MSS.) and Hos. 11.4 and 14.6: וְאֶהְיֶה (with three and eight Ginsburg MSS. respectively).

There are likewise three contradictory variants where the MS. prefers a simple *šewa* under a guttural. These are Hos. 7.15: וַיִּחְשְׁבוּ, Hos. 9.16: מִקְהָמְרִי and Amos 8.9: וַיִּהְיֶה שִׁכְתִּי. In a line with the former, more definite tendency to employ a *ḥatef* vowel are Ezek. 3.7: וַיִּקְשֵׁי and 7.15: יֵאָבְלוּ — peculiar are the four occurrences of תִּאָבְלוּ (Ezek. 4.9, 10, 12 twice) where the full *pataḥ* appears to be a more emphatic form of the *ḥatef pataḥ* used in the previous case. This is of interest in view of the traditional altercation between ben Asher and ben Naftali on this point (cf. the most recent treatment of the subject in *Masoreten des Westens*, II, p. 63\*). The MS. appears to follow the ben

Asher tradition in these instances most emphatically. As a matter of fact the statement of ben Asher's usage as quoted by Kahle (ibid.) reads as follows: "Jede Form von **כֶּכֶּ** pflegte ben Ašer bei dem Kaf mit Pataḥ zu versehen, wenn bei dem Lam drei Punkte waren." "*Pataḥ*" has always been taken to mean *ḥaṭef pataḥ*, but the literal meaning of the term applies to the HUC MS. in these four instances.

The proportion of apparent errors in the vowel text seems rather high. On the other hand, in some instances the reading appears to be based on a good tradition or to be purposed.

There are 24 variants in the preceding list which occur likewise in MSS. collated by Ginsburg. The number is again too small to permit of any generalizations. The Ginsburg MSS. which concur most frequently with the HUC MS. are 24, 15, 69 and 26 with No. 24 definitely in the lead — 18 cases out of the 24. Ginsburg dates Nos. 24 and 26 cir. 1300 and No. 15 cir. 1250. Kennicott has not recorded vowel variants.

The Ginsburg MSS. in this case are not the same as those mentioned above where the MSS. were named in favor of which the second scribe altered the original consonant text when he did not alter it in favor of our printed editions. This suggests that the scribe who added the vowels was not the same as the one who revised the consonant text. But the evidence is not convincing.

The *original consonant* text differed greatly from the text contained in the second edition of Ginsburg's Masoretic Bible which I have used for comparison. It often agreed with MSS. collated by Ginsburg, Kennicott and de Rossi and with ancient versions.

In the 14 chapters of Hosea there are 31 variants which the HUC MS. has in common with MSS. collated by Ginsburg. The Ginsburg MSS. with which the HUC MS. agrees most frequently, named in the order of frequency, are: 7, 3, 21, 26, 11, 66, 68, 69, 24, 10. It is very significant that the MS. which heads the list is No. 7 which, for other reasons (see above p. 233), we have associated with the HUC MS. It and the second on the list (No. 3) are the two MSS. among those collated by Ginsburg which Kahle assigns definitely to the ben Naftali tradition



(cf. *MdW*, II, p. 53\*ff.).<sup>6</sup> He mentions likewise a second group of MSS. "von diesem Texte mehr oder weniger stark beeinflusst" and here he includes Nos. 21 and 11<sup>7</sup> which occupy the third and fifth place on the list respectively. Thus four ben Naftali MSS. are among the first five in the list and the two which belong to the purer ben Naftali tradition head the list.

The figures for the other passages collated agree in suggesting a definite relationship between the consonant text of the HUC MS. and MSS. in the ben Naftali tradition although their evidence is somewhat less certain.

In the 9 chapters of Amos there are 16 variants which the HUC MS. has in common with MSS. collated by Ginsburg. The Ginsburg MSS. which agree most frequently are 21, 11, 26, 68, 34, 7, 66, 69, 3, 24 in that order. The two modified ben Naftali MSS., 21 and 11, head the list in this book and Nos. 7 and 3 occupy less important positions. This list is based on a fairly small number of variants.

In the first twenty-five chapters of Ezekiel on the basis of 126 consonant variants common to the HUC MS. and Ginsburg MSS. the order is as follows: 66, 68,<sup>8</sup> 11, 3, 24, 21, 27, 10, 15. Three of the ben Naftali MSS. (11, 3 and 21) appear in the list though not in the highest places — in the third, fourth and sixth places. No. 7 is noticeably absent, but the reason is that this MS. is fragmentary and of these 25 chapters it contains only the first eleven (Ezek. 1–11.19a). On the basis of the 11 chapters alone the order is 7, 24, 11, 66, 68, 27, 3, 21, 10, with No. 7

<sup>6</sup> In Bauer and Leander's *Historische Grammatik der hebräischen Sprache*, Halle, 1922, p. 101, footnote 2, Kahle states that Ginsburg 3 = MS. Durlach 55 from Karlsruhe. He does not again refer to this correspondence in *MdW*, II where he otherwise mentions Ginsburg MSS. Also, there (p. 55\*) he refers to the same MS. as the Reuchlin Codex No. 3 whereas Ginsburg's No. 3 is given in the Ginsburg Bible as Reuchlin No. 2. But I have compared variants in Ginsburg 3 and Kenn. 154 = Durlach 55 and found the MSS. to be the same. (Since this writing I have spoken to Prof. Kahle and heard from him that this is correct.)

<sup>7</sup> Kahle (*MdW*, II, p. 56\*) mentions also Nos. 16, 19 and 32, but these contain only scattered portions (the haftarot) of the sections here considered.

<sup>8</sup> A chapter (22.29–23.29) is missing in No. 68 and the number for this MS. had to be adjusted accordingly.

in the first place on the list. Of the 67 consonant variants in these chapters 50 are contained in No. 7. Presumably then if we had No. 7 complete for the 25 chapters it would have first place here also as in Hosea.

Ginsburg No. 7 does not contain Isa. 1-27, the fourth section collated for this purpose. The order for the remaining MSS. is 69, 24, 26, 3, 21, 66, 10, (68),<sup>o</sup> 27, 11. Nos. 3 and 21 appear in the middle of the list and No. 11 in the 10th place. This list is made on the basis of 77 consonant variants common to the HUC MS. and MSS. collated by Ginsburg.

Not all of the consonant variants are of equal significance. Most of them concern only the plene or defective writing of *vav* and *yod*. Of the 293 variants used for this comparison in Isa. 1-27 and Ezek. 1-25, 200 of them or over two thirds are of this nature and only the remaining 93, i.e. less than one third, are what we might call more significant variants. As a matter of fact, however, this distinction between more significant and less significant was not recognized by the scribes. We know this, of course, from the care with which the Masorites indicated in the margin whether a word should be read מלא or חסר but an interesting additional proof is found in this comparison. If we make two lists one (a) based on the entire 293 variants, the other (b) on only the 93 "more significant" ones the order of the MSS. in the two lists is practically the same:

(a) (7), (68), 66, 24, 3, 11, 21, 10, 27, 26;

(b) (7), (68), 66, 24, 21, 11, 10, 26, 3, 27.

The ten high MSS. in both lists are the same. The only real difference is that No. 3 has a lower position in (b) than in (a).

Summarizing the results of these statistics we see (1) that the different sections compared do not all point to exactly the same MSS. as those most closely related to our MS.; (2) that, however, certain MSS. appear in all of the lists in important positions. These are the ben Naftali MSS. 3, 7, 11 and 21 and others, notably 68, 66 and 24, which are almost if not quite as high as the ben Naftali MSS. and 10, 26, and 27 which are not far behind.

\* Chapters 1-13.14 are missing in No. 68 and the position of this MS. in the list has been adjusted accordingly.

The Kennicott MSS. with which the HUC MS. appears to be most closely related are 150, 96, 93, 182, 224, 154 (= Ginsb. 3), 253, 30, 112, and 72 in that order and with 150 far ahead of the others. This list was made on the basis of 237 consonant variants found in the HUC MS. and Kennicott MSS. some of them in Ginsburg MSS. as well.

The leading MS., No. 150, is an interesting MS. from the end of the 13th century. Kennicott refers to the erroneous opinion of Opitz "(Praef. Bibl.)" that No. 150 agrees closely with the received text and emphasizes its importance because of its many divergences.<sup>10</sup> It has likewise attracted attention in more recent times. Volz<sup>11</sup> considers it a valuable witness for the text and it has a place among the MSS. which frequently contain variants found in liturgical texts with Palestinian vocalization.<sup>12</sup> Most recently the MS. has been discussed by Hempel<sup>13</sup> who calls attention to the fact that it frequently agrees with ancient versions. The list of Kennicott MSS. which Volz (ibid.) considers valuable is almost identical with the list of MSS. which most frequently agree with the HUC MS.:

Volz: 1, 30, 72, 93, 96, —, 150, 154, 201, 224.

HUC MS.: —, 30, 72, 93, 96, 112, 150, 154, —, 224.

The two ben Naftali MSS. among those which frequently agree with the HUC MS. — Nos. 224 and 154 — occupy the 5th and 6th places on the list. These are the only ben Naftali MSS. among the MSS. collated "per totum" by Kennicott for the sections in question. No. 154 is Ginsburg 3 and occupies a position in the list of Kennicott MSS. similar to its position in the list of Ginsburg MSS.

The Ginsburg MSS. 3, 7, 11 and 21 are dated 1105, circa 1150, circa 1200 and 1293 respectively; 24 about 1300, 66 in the 13th to 14th century and 68 probably in the 14th century.<sup>14</sup> The

<sup>10</sup> *Dissertatio Generalis*, Oxford, 1780, p. 83.

<sup>11</sup> *Studien zum Text des Jeremia*, Leipzig, 1920, p. IX.

<sup>12</sup> Cf. Kahle, *MdW*, I, p. 86.

<sup>13</sup> *ZATW*, 1930, p. 193.

<sup>14</sup> For 3 see above, note 6 and *MdW*, II, p. 55\*; for 7 see *MdW*, II, pp. 54\*f.; for 11, 21 and 24 Ginsburg's *Introduction*, pp. 605ff., 573ff., and 721ff. respectively; for 66 and 68 see Margoliouth, *Catalogue of Hebrew and Samaritan MSS. in the British Museum*, part I, Nos. 132 and 139.

Kennicott MSS. on the list are assigned dates as follows; 150 — end of 13th cent., 96 — end of 14th, 93 — middle of 13th, 182 — middle of 14th, 224 — beginning of 12th, 154 = Ginsb. 3, 253 — 1495, 30 — cir. 1200, 112 — beginning of 14th, 72 — end of 14th. If it is at all permissible to draw conclusions with regard to the date of a Bible MS. from such data the similarity with the ben Naftali MSS. of the 12th and 13th centuries on the one hand and with Ginsburg 24, 66 and 68, Kenn. 150, 96, 93, 182, etc. from the late 13th or the 14th century on the other suggests that the HUC MS. represents a late development of the ben Naftali tradition and belongs to this latter period. The character of the Masorah seems to point to a similar date (see above p. 233). (After completing this study I laid a photostat copy of a page of the MS. before Prof. Kahle and Dr. R. Edelman in Bonn and obtained their opinion as to its age. Both scholars agreed in naming it a Spanish MS. of the 13th century).

It is significant that the ben Naftali MSS., which have hitherto been grouped together because of peculiarities in *vocalization*, here apparently form a group on the basis of a comparison of the *consonant* text. The differences between ben Asher and ben Naftali recorded in the Masoretic lists and treatises concern vowels and accents exclusively. The MSS. assigned by Kahle to the ben Naftali tradition were isolated solely because of the character of their vocalization. In the time of ben Asher and ben Naftali presumably the official consonant text had long before superseded and eliminated all others, and these authorities gave their attention to the fixing of the vowels and accents alone. Our information about the activities of the schools of ben Asher and ben Naftali is, however, admittedly, very limited, and we are faced with the fact that, even with respect to a given group of *consonant* variants — in this case those found in the HUC MS. — the recognized ben Naftali MSS. show themselves related. It appears, therefore, that the school of ben Naftali possessed a slightly divergent tradition with regard to the consonant text as well, or at least that the MSS. now recognized as ben Naftali MSS. are descended from a MS. with this slightly divergent consonant text, which in practice amounts to the same thing. However, this important point needs further investigation.

We have so far compared the consonant variants in order to determine what other MSS. are related to the HUC MS. We now consider the variants for the purpose of determining what value they have in themselves and what degree of reliability the MS. possesses.

The following 33 consonant variants found in 75 chapters of the HUC MS. are not recorded by Ginsburg, Kennicott or de Rossi:

Isaiah:

- 4. 6: למחסה — without the conjunction (so Syr.: **למִחְסֵה**).
- 10.13: ועֲתֹודִיתֵיהֶם — with a *yod* after the *dalet* — probably an error for *va*.
- 13. 8: ופני — with the conjunction (so the LXX: *καὶ τὸ προσ.* Syr.: **292a**); it is possibly original and fell out because the previous word ends with a *va*.
- 15. 5: חֲרוֹנִים — 'מ.
- 21. 2: צרי — 'ח.
- 24. 3: הבח — without the conjunction.
- 24.18: ארץ הרים for ארץ.
- 24.19: החמטטה — 'ח.
- 24.21: מרום — without the article.
- 26.10: ועול for יעול, probably an error.
- 26.15: יתיר ה'א — רחקתה.

Ezekiel:

- 4. 7: עליה for עליהם.
- 4.14: הנה for הנני.
- 5. 1: שקל for משקל.
- 9. 6: תגעו for תגעו.
- 10. 6: האופן for האיש.
- 10.11: המקום for במקום (LXX B: *εἰς ὃν ἄν τῶτον*).
- 10.16: כי — the *yod* over an erasure, probably a *nun* — apparently an error.
- 12.19: ישו — the *yod* over an erasure, probably a *tav* (cf. Kenn. 96: חשתון).
- 14.14: ינצלו for יצילו.
- 16. 9: מעליך for מעלי.
- 17.15: להפר for והפר (Kittel, *BH*, suggests ומפר with the Targ. [וקשני] — LXX has *παρὰβαίνων*).



- 18.31: ולמה for ולא.  
 19.14: אכלה for אכל.  
 21.34: בקסם for בקסום.  
 22.10: נלה for גלו (so LXX, Syr., Targ., Vulg., cf. Kittel, *BH*).  
 24. 1: ויהי דבר יהוה for כה אמר יהוה.  
 24.23: מ' — ונמקותם.

Hosea:

- 9.17: לו for לי — probably an error.  
 11. 2: יקטרון for יקטרו.  
 11. 9: אפרים את אפרים.

Amos:

- 5.14: יהוה omitted (so in Syr.).  
 5.19: נחש without the article.

Three apparent errors in this list concern the confusion of *vav* and *yod*: Isa. 10.13, 26.10, Hos. 9.17 (cf. below p. 251 to Ezek. 36.11: מראשיתוכם). The copyist frequently succumbed to other types of common errors:

Repetition of a word or phrase:

Ezekiel:

- 6.13: וחחח כל עץ רענן.  
 23. 7: כלם after פרשים רכבי סוסים.  
 24. 2: היום after the first הוזה.  
 24. 5: עצמים after מלא.

All of these cases can be explained easily because of the propensity of similar phrases.

The omission of a word or phrase:

Isaiah:

16. 9: נפן שבמה.  
 17.10: נטעי — so only Kenn. 128.  
 24.13: הארץ בחוך.  
 25. 9: ויושיענו זה יהוה קוינו לו — also in Kenn. 30 and LXX א A Q\*.  
 27. 7: הכהו.

Ezekiel:

2. 6: מהם.  
 8.13: חראה.  
 11.13: ואפל על פני.  
 14.22: את כל אשר עשיתי.

16.46: היא (also in Kenn. 173).

24. 2: עצם היום הזה סמך מלך בבל אל ירושלים ב-.

Hosea:

9.15: כי.

Amos:

2.10: ארץ omitted before האמרי (so Kenn. 89 and 170).

5.22: ארצה

This latter list could easily be supplemented from other sections of the MS. Words omitted from the text by the first scribe have frequently been added on the margin; most of the omissions are due to homoioteleuton.<sup>15</sup>

The number of errors in the list of consonant variants is high, as it was in the list of vowel variants, but the occasional agreement of the MS. with ancient versions should warn against a too hasty condemnation of the MS. as carelessly done. Particularly notable are the following aforementioned cases:

Isa. 4.6: למחסה; 13.8: ופני; Ezek. 10.11: במקום (?), 17.15: להפר (?),

22.10: גלי, Amos 5.14: יהוה omitted.

In addition to these cases where the HUC MS. alone agrees with the ancient versions there are many cases where the HUC MS. agrees with the versions along with other MSS. In the sections collated there are about thirty such cases.

Notable among them are:

Isaiah:

5.12: ותוף with the conjunction — LXX, Syr., Vulg., — of MSS. only de Rossi 24 and 226.

26.18: בארץ for ארץ — LXX: ἐπὶ τῆς γῆς — in Kenn. 153.

Ezekiel:

3.19: רשע extra as in v. 18, LXX similar, so Kenn. 4, 150, 176, 182.

18.13: יומת — hof'al, so Targ., and Kenn. 28.

24.23: ונחמתם for ונחמתם, LXX, Syr., Symmachos, and Kenn. 112, 126, 99 primo.

<sup>15</sup> I have on my shelf a חומש עין הסופר which was used by a scribe, my grandfather, Seligman Blank of Lendershausen; on the margin he has drawn a hand pointing to every line which contains the same word twice or similar words. This is practical evidence of the care needed to avoid this common type of error.

The fairly high proportion of error is thus counterbalanced by a rather frequent agreement with the ancient versions. Although this does not establish the MS. as a reliable witness for the Biblical text it does lend the MS. considerable interest. Comparatively late itself, the MS. appears to have as an antecedent an early, somewhat divergent consonant text.

Soon after the beginning of the Christian Era an official text of the Hebrew Bible was agreed upon. This was intended to put an end to the diversity which had arisen during the preceding centuries of text transmission. The official text gradually obtained general acceptance and succeeded in eliminating all competitors. As far as the consonant text is concerned the process was complete by the end of the fifth century. Such, at least, is the widely accepted hypothesis as to the history of our text. It appears from our study that room must be made in the hypothesis for such facts as those just presented. Perhaps one must admit the possibility that here and there a divergent MS. remained "uncorrected" and furnished the model for later copies now extant. Further evidence is needed, however, before an assertion to this effect can be made with any degree of assurance.

The following variants are taken at random from sections of the MS. other than the sections studied in detail:

Isaiah:

48.14: בבל for בבבל — so Kenn. 1, 93(!), 96(!), 150(!), 182(!), 201, 224(!), 128(?), agreeing with כשדים.

49. 1: אלים for אלי אלים — so Kenn. 93(!), 96(!), 150(!), 201.

49.12b: ונה for ונה — so Kenn. 227, LXX.

Ezekiel:

28.25: ונקרשתי במ — so Kenn. 182(!).

32.32: no את before חללי — so Kenn. 154(!).

Micah:

4. 2: הר omitted — so Kenn. 150(!).

4. 4: צבאות omitted — so Kenn. 96(!), 100, 149.

Zechariah:

6.12: first לאמר omitted — so Kenn 30(!), 96(!), 150(!), 155, LXX, Syr.

12.14: whole verse omitted — so Kenn. 72(!).

## Psalms:

4. 4: הפלה יהוה for יהוה הפלה — so Kenn. 216.

48.12: יהוה extra at end of verse — so Kenn. 222, LXX, Syr.

50. 1: לאסף over erasure — cf. Kenn. 147: לאסף, cf. also LXX AR.

106.26: להם omitted — so Kenn. 40.

## 1 CHRONICLES

5.26: תולת פלנאסר — so Ginsb. 16, 19 (a ben Naftali MS.), Kenn. 158, 170, LXX, Syr.

In each case all MSS. which agree are cited. It is notable that the MSS. which appear in the more detailed study to be related to the HUC MS. are prominent in this list also — even in variants such as those in Isa. 48.14, Ezek. 28.27 and Zech. 12.14 which are probably due to errors in copying.

An interesting question is raised by a certain marginal note that occurs a number of times in the MS. At times the note appears to be a part of the original Masorah but at other times it is as clearly an addition by a different hand written with different ink and appears on the extreme margin beyond the Masorah. This is the word אלוטי which occurs no less than 34 times. A small circle often marks the word in the text to which the note applies as in the case of the Masoretic notes but frequently there is nothing to indicate to what the note refers.

From the use of the term it appears to be the name of a Masoretic authority, who, as far as I have been able to determine, has hitherto been unknown. As a rule only the name אלוטי appears in the margin: Isa. 3.26 (fol. 3b) — ונקטה, 10.15 (7a) — המשור, 14.3 (8b) — מעצבד ומקנוד, 27.4 (13b) — אפשה or אפיתה, 47.2 (25a) — השפי (segol over erasure), Ezek. 6.8 (37a) — בהורותיכם, 36.11 (59a) — מראשיתכם (sic!), Hos. 9.6 (72b) — קימוש, Mic. 7.11 (82a) — באפפי (sic!), Ruth 3.13 — לנאלך — and 15 (99a) — ואתחייבה, Prov. 24.31 (139a) — קמשנים or חרלים, Dan. 4.27 (168a) — בניחה, 6.19 (169b) — קדמוהי, Esther 4.11 (176b) — שרביט, 5.2 (177a) — השרביט and 8.4 (178a) — שרביט. (The three last examples are not clear because the words appear to have been

altered in more recent times; the *אלרוטי* form was probably *שךרביט* with *dageš* in all cases.) Sometimes a word is repeated from the text and vocalized differently and with the word the name *אלרוטי* occurs: Ps. 39.13 (107b): *שְׁמָעָה אֶלְרוּטִי*—text *שְׁמָעָה*; Ps. 89.45 (118b); *אֶלְרוּטִי מִטְהָרוּ*—text *מִטְהָרוּ*; Prov. 8.36 (134a): *אֶהְבּוּ אֶלְרוּטִי*—text *אֶהְבּוּ*; Job. 29.4 (159a): *חֲרָפִי אֶלְרוּטִי*—text *חֲרָפִי*; Dan. 3.28 (167a): *שְׁנֵי אֶלְרוּטִי*—text *שְׁנֵי*; Dan. 4.5 (167a): *אֶחָד אֶלְרוּטִי*—text *אֶחָד*; and 2 Chron. 19.7 (222b): *עֹלָה אֶלְרוּטִי*—text *עֹלָה*. In a number of cases also when a word is repeated from the text the words *אלרוטי* and *ובס' א'* occur along with it: Ezek. 43.7b (65a): *א' בְּמוֹתָם אֶלְרוּטִי וּבְס' א'*—text *בְּמוֹתָם*; Zech. 5.11 (91b): *וְהִזִּיקָה אֶלְרוּטִי וּבְס' א'*—text *וְהִזִּיקָה*; Zech. 9.5 (93b): *א' מִבְּטָה אֶלְרוּטִי וּבְס' א'*—text *מִבְּטָה*; Job 34.32 (161a): *אֶלְרוּטִי וּבְס' א'*—text *בְּלָעָרִי*; Dan. 4.5 (167a): *אֶלְרוּטִי וּבְס' א'*—text *קְדַמּוֹהִי*; and Esther 4.11 (176b): *א' שְׁעִשְׁנוּ דְּנִשְׁ אֶלְרוּטִי וּבְס' א'*—text *שְׁעִשְׁנוּ דְּנִשְׁ*. There is a similar comment to Job 20.26 (157a): *אֶלְרוּטִי תִאָּכְלֶהוּ ס' א'*—text *תִּאָּכְלֶהוּ* and another to Ps. 129.7 (127b): *אֶלְרוּטִי וְחִצָּנוּ ס' א'*—text *וְחִצָּנוּ*. Two important comments are contained on folio 139b: Prov. 26.26 to *תִּבְסָה אֶלְרוּטִי* *כך אומ' החיוג ור' וְתִקְאָתוּ* and Prov. 25.16 to *וְהִמְסִרְתָּ מוֹכִיחַ כִּי כֵן מֹשֶׁה אֶלְרוּטִי*. (The facsimile above contains the note to Ezek. 6.8.)

From this last comment it is clear that *אלרוטי* is a proper name designating a person — whose full name is given here as Rabbi Moses Alruṭi. As far as I know the name is not otherwise known. The first two letters *'al-* may be the Arabic article and the last syllable *-i* may be the generic ending, in which case the name would mean R. Moses of Ruṭ (compare Alfasi from Fez, Alfarabi from Farab, etc.). And this Ruṭ might be one of two places in Spain: (1) Rute near Lucena in the province of Cordova; or, (2) Ruṭa (رُطَا) which is listed by Yaḳūt as “a fortress of the province of Saragossa in al-Andalus (Spain), a well fortified place by the Wadi Shalūn.”<sup>16</sup> If the former place had a Jewish

<sup>16</sup> I am indebted for this reference and for other valuable suggestions to Prof. Jacob Mann.



community in the Middle Ages its proximity to the important Jewish center Lucena might suggest this as the home of Moses Alruṭi. But this is a mere conjecture.

"*The Ḥayyuj*," who is named along with Alruṭi is doubtless Judah ben David Ḥayyuj, "the father of scientific Hebrew grammar," who lived in Cordova in the second half of the 10th century. The reference is probably to Ḥayyuj's work on Weak and Geminative Verbs. In this work he refers to the word in question as follows: "The Hiphil is הָקִיא, הָקִיאָוּתִי, וְהָקִיאָוּתִי (Pr. 25.16) is used, for וְהָקִיאָוּתִי, like וְהִשְׁבַּחְתָּ (Deut. 22.2): so וְהִבְאִיתָ (21.12), for וְהִבְאִיתָ: so וְהִטַּלְתָּ (Jer. 22.26), etc." This is J. W. Nutt's translation<sup>17</sup>. The Arabic original as printed in the edition by Morris Jastrow<sup>18</sup> is slightly different: والثقل في هذا الامل والكيا كقياوتهم (Pr. 25,16) واستعملوا كقياوتهم (Deut. 21.12) وكتبته على حروف في ثور. The reference to וְהִשְׁבַּחְתָּ in Deut. 22.2 is omitted and the vowels are supplied in the examples. The word in question is not vocalized here as it is in our MS. and as there ascribed to Ḥayyuj. But Jastrow added the vowels as he states: "So far as vowels are concerned, I have attached them in every case to that word in the Biblical quotation which serves as an illustration" (Preface p. xxi). And "I have adopted the accepted Massoretic reading" (Ibid.). In this case the "accepted Massoretic reading"<sup>19</sup> was not that intended by Ḥayyuj as the note on the margin of the HUC MS. and his analogy וְהִבְאִיתָ indicate. Contrary to the present reading he read וְהָקִיאָוּתִי without a *holem* after the *alef*. And it was in this that he and Alruṭi agreed.

To conclude from the association of the names of Ḥayyuj and Alruṭi in this one note that they were contemporaries or

<sup>17</sup> *Two Treatises on Verbs Containing Feeble and Double Letters* by R. Jehuda Ḥayyuj of Fez, etc., London and Berlin, 1870, p. 63.

<sup>18</sup> *The Weak and Geminative Verbs in Hebrew* by Abu Zukariyya Yahya ibn Dawud of Fez known as Hayyug, Leide, 1897, p. 117, Arabic section.

<sup>19</sup> Actually both MSS. and printed editions vary with respect to the vocalization of this word. Ginsburg cites 5, 15, 24, 26, 27, 74, 75, editions 10, 13, 17, 18 as favoring וְהָקִיאָוּתִי and 34, 64 as reading וְהָקִיאָוּתִי with the *holem* מֵלֵא. The text form has no *holem*.

from the same province (Ḥayyuj from Cordova, Alruṭi from the town near Lucena) would be extremely precarious and further evidence for placing Alruṭi is lacking.

The interpretation of the marginal note is not always clear. The mere name אַלְרוּטִי on the margin can mean: "This is the reading of Alruṭi" or it can mean "Alruṭi has a different reading." So also the comment — אַלְרוּטִי וּבִס' א' which can mean: "This is the reading of Alruṭi but in other books we find the variant reading such and such." The comment נִנְי אַלְרוּטִי or נִנְי אַלְרוּטִי is perfectly clear. It means: "Alruṭi has the following variant." In the seven cases where this note occurs attention is thus called to the fact that אַלְרוּטִי does *not* agree with the reading in the text. On the other hand the comments אַלְרוּטִי וְהַמְסֵרָה מוֹכִיחַ כִּי כֵן and אַלְרוּטִי וְהָצֵנוּ סָא וְהָצֵנוּ mean "Alruṭi reads וְהָצֵנוּ — the reading found in the text — but other books have the variant reading וְהָצֵנוּ," "Alruṭi agrees with the reading in the text and the Masoret (?) argues for its correctness," and "So, i.e. as in the text, say Ḥayyuj and R. Moses Alruṭi," and call attention to the fact that Alruṭi *agrees* with the reading found in the text. The note אַלְרוּטִי תֵּאָקְלֵהוּ סָא also means "Alruṭi agrees with the reading found in the text, but תֵּאָקְלֵהוּ is found in other MSS."

Apparently, then, the student who added the notes referring to Alruṭi meant to indicate cases where this authority agreed with readings in the text and not merely such as showed his disagreement. He may have had before him a list of readings or a treatise of some sort containing readings preferred by Alruṭi and was possibly interested in seeing to what extent our MS. agreed with this list. Where the MS. agreed he made a note to that effect, either merely נִנְי אַלְרוּטִי meaning "Alruṭi has the same reading" or נִנְי אַלְרוּטִי וּבִס' א' meaning "Alruṭi has the same reading as this MS. although others have the variant reading such and such" — the list possibly recorded not merely the readings of Alruṭi but the manuscript readings from which these differed.<sup>20</sup>

<sup>20</sup> Support for this interpretation is found in the following fact: There are two notes to the same form קָרְמוּהִי in Daniel. One note (to 4.5) reads

The MS. thus furnishes us with a number of readings alleged to be characteristic of this new Masoretic authority Alruṭi. In some cases we are given merely the reading of Alruṭi, which is the same as that of the text. In these cases it is largely guesswork to determine just what point in the line opposite which the name Alruṭi appears is characteristic of this authority. In fifteen cases we are told how the reading of Alruṭi differs from that of others. These latter cases are of greater importance for our problem. Unfortunately however, they are insufficient to permit us to formulate any principles he may have followed.

אלרוטי ובס' א' קדמוהי — the other (to 6.19) merely אלרוטי. Presumably אלרוטי read the form the same in both occurrences and both notes mean the same thing, namely that אלרוטי agrees with the text reading but others read otherwise.



# DIE FASTENROLLE EINE UNTERSUCHUNG ZUR JÜDISCH- HELLENISTISCHEN GESCHICHTE

HANS LICHTENSTEIN, Tel-Abib

## I

### DIE GESCHICHTE DER FASTENROLLE

DIE „Fastenrolle“ enthält 36 Tage, an denen das Fasten, teilweise auch die Beobachtung von Trauergebräuchen verboten ist. Die Einsetzung einiger von ihnen wird in den ersten beiden Makkabäerbüchern und im Buche Esther berichtet. Das zeigt, dass die in der Fastenrolle zusammengestellten Tage nicht durch *einen* Akt, sondern allmählich zu Freudentagen geworden sind. Abgesehen von den Makkabäerbüchern und dem Buche Esther werden sie zuerst im Buche Judith erwähnt, das wohl aus der Makkabäerzeit stammt. Judith „fastete an allen Tagen ihres Wittums mit Ausnahme der Freitage und Sabbate, der Vortage der Neumonde und der Neumonde, der Feste sowie der Freudentage des Hauses Israel“ (cod. 58, die Vetus Latina und der Syrer setzen hinzu: „und der Gedenktage“<sup>1</sup>). Hier ist also das Verbot des Fastens schon vorausgesetzt. Wie die Besprechung der einzelnen Tage zeigt, feiert die Fastenrolle Ereignisse von der Makkabäerzeit bis zum Beginn des Aufstandes gegen Rom. Kein Tag—mit Ausnahme des Trajanstages, der jedoch in den besten Handschriften fehlt—stammt aus der Zeit nach 67. Am Schluss des Werkes heisst es, dass der Anhang Elieser ben Chananja ben Hiskias vom Hause Guron die Fastenrolle verfasst habe. Graetz identifizierte diesen Elieser mit dem Zelotenführer Eleasar ben Chananja. Er oder seine Anhänger haben also das in der aramäischen Volkssprache geschriebene Werk zusammen-

<sup>1</sup> 8.6: ἐνήστευσεν πάσας τὰς ἡμέρας τῆς χρεύσεως αὐτῆς χωρὶς προσαββάτων καὶ σαββάτων καὶ προνουμηνιῶν καὶ νουμηνιῶν καὶ ἑορτῶν καὶ χαρμοσυνῶν οἶκον Ἰσραὴλ (καὶ μνημοσυνῶν).



gestellt, d. h. wohl mit Einschluss der durch die Revolution hinzugekommenen Tage neu veröffentlicht. Diese "Rolle" (מגלה, die Form מולת חגיגה ist jünger) wird auch in der Mischna (um 200; Ta'anit 2.8) und im babylonischen Talmud (um 300, 'Erubin 62b) als „geschrieben“ zitiert. Sie war also eins der wenigen halachischen Werke, die aufgeschrieben wurden. Um 200 war sie, wie aus der angeführten Mischnastelle hervorgeht, noch gültig; in der ersten Hälfte des 3. Jahrhunderts wird aber schon darum gestritten, und als Argument wird angeführt, dass bereits um 90–130 in Lydda am Chanukka ein Fasten verhängt worden sei, wogegen allerdings protestiert wurde (R. H. 18b). Schwarz (*Simonsen-Festschrift* S. 205) nimmt an, dass sie zuerst in Babylonien ausser Kraft getreten sei und dass Palästina sich dem erst später angeschlossen habe; dagegen scheint mir aber der erwähnte Fasttag von Lydda zu sprechen. Um 350 jedoch wird die „Rolle“ allgemein als ungültig betrachtet (j. Meg. 1.6, 70c; Ta'an. 2.13, 66a; Ned. 9.1, 40d), wenn sie auch nie durch einen besonderen Akt ausser Kraft gesetzt worden ist. In zwei Fällen wurde sogar die ursprüngliche Bedeutung der Tage in ihr Gegenteil verkehrt, und aus den Freudentagen wurden Fasttage (3. Tischri und 13. Adar; vgl. die Bemerkungen zu diesen Tagen). Nur zu Chanukka und Purim ist das Fasten bis heute verboten (vgl. R. H. 19b).

Bei all dem handelt es sich nur um den aramäischen Text. Nur dieser wird im palästinensischen und babylonischen Talmud als „Fastenrolle“ zitiert. Der hebräische Kommentar (das „Scholion“) wird also, mindestens in seiner jetzigen Form, aus nachtalmudischer Zeit stammen. Wie die Fastenrolle selbst, muss aber auch er allmählich, und zwar bereits in talmudischer Zeit, entstanden sein. Schon damals hat man sich um die Erklärung der nicht mehr verstandenen aramäischen Daten bemüht, und einige dieser Erklärungen werden im Talmud als mündliche Überlieferung (דתניא במ"ה Ta'anit 12a; ה"ר Sanhedrin 91a) zitiert. Wir können nicht mehr sagen, ob der Verfasser des Scholions sie mündlicher Tradition oder dem redigierten Texte des Talmuds entnahm. Dies gilt vom Scholion zum 1.–8. Nissan (Anfang), 8.–14. Nissan, 3. Tischri, 21. Kislew und 28. Adar. Klar ist dagegen die Entstehung des Scholions zum 24. Ab. Im baby-

lonischen Talmud wird nach dem aramäischen Texte ein Streit zwischen Phariseern und Saddukäern um das Erbrecht der Tochter erwähnt. Das Scholion enthielt schon eine andere Erklärung des Tages, aber ein späterer Bearbeiter fügte noch das Stück aus dem Talmud hinzu, so dass das Scholion—wenigstens in den Handschriften der Gruppe 7—jetzt zwei sich widersprechende Erklärungen enthält. Wieder anders steht es mit den Erklärungen zum 27. Ijjar, 14. und 25. Siwan, 17. Elul (Schluss), 25. Kislew (Schluss) und 13. Adar. Hier bietet das Scholion Texte, für die in der talmudischen Literatur Parallelen vorhanden sind. Die Unterschiede zwischen dem Scholion und den Paralleltexten sind nicht grösser, aber auch nicht schwächer, als es sonst bei Parallelen innerhalb der talmudischen Literatur der Fall ist. Das zeigt, dass dem Scholiasten für diese Tage eine selbständige Tradition zur Verfügung stand. In einem Falle (15. Ab) werden Mischna und Baraitot (anonym überlieferte, nicht in die Mischna aufgenommene, aber dieser gleichzeitige Lehrsätze) zitiert. Die Uebereinstimmungen mit Angaben bei Josephus (15.–16. Siwan, 2. und 22. Schebat, 17. und 20. Adar), Philon (22. Schebat) Tertullian und Theodoretos (25. Siwan) beruhen auf Benutzung derselben mündlichen Tradition. Dagegen finden sich Angaben des Scholions zum 23. Ijjar, 23. Marcheschwan, 25. Kislew (Mitte) und 13. Adar im ersten Makkabäerbuche wieder, und das ist teilweise wenigstens durch Entlehnung aus diesem (natürlich im hebräischen Urtext, der ja noch Origines und Hieronymus bekannt war,) zu erklären. Schliesslich enthalten die Scholien zum 7. und 27. Ijjar, 4. Tammus, 15. und 24. Ab, 4. und 22. Elul, 25. und 27. Marcheschwan, 3. Kislew, 28. Tebet, 2. und 28. Schebat, 8.–9. und 16. Adar eine Reihe von historisch wertvollen Nachrichten, für die keine Parallele vorliegt. Es scheint mir nicht angängig, sie mit Grätz sämtlich aus verlorenen Teilen des palästinensischen Talmuds stammen zu lassen. Wo talmudische Parallelen erhalten sind, zeigt es sich, dass der Scholiast über eine selbständige Tradition verfügte.

Da der Talmud nur den aramäischen Text unter der Bezeichnung der Fastenrolle kennt, wird die erste schriftliche Redaktion des Scholions erst in nachtalmudischer Zeit erfolgt sein. Zu diesem ursprünglichen—durchweg anonymen—Scholion sind nun

aber immer neue Abschnitte hinzugefügt worden. Bearbeiter und Kopisten nahmen aus der talmudischen Literatur, besonders dem babylonischen Talmud, was nach ihrer Ansicht in das Scholion passte. Dass dies bis ins 13. Jahrhundert hinein so gegangen ist, zeigen die erhaltenen Handschriften. Es bildeten sich allmählich zwei Rezensionen, eine spanische und eine italienische. Die zweite ist weniger wertvoll, weil stärker vom Talmud abhängig, aber sie gelangte durch die Erstausgabe Mantua 1513, von der alle folgenden bis auf die Neubauers abhängig sind, zu allgemeiner Verbreitung. Die spanische Rezension ist nur in einer Handschrift (D) und wenigen Zitaten (Estori ha-Farchi, Kaftor wa-Ferah; Menachem ibn Zerach, Šeda la-Derek) erhalten.

## II. AUSGABEN UND HANDSCHRIFTEN

1) Die Erstausgabe der Fastenrolle erschien in Mantua bei Samuel Latif, zusammen mit dem *Seder 'Olam (rabba)*, *Seder 'Olam zuṭa* und Abraham ibn Dauds *Sefer ha-Qabbala*; der Druck war am 4. Cheschwan 274 = 1513 vollendet. Die übrigen Ausgaben sind:

2) Venedig 1545 (wie 1).

3) Basel 1580 (wie 1).

4) Amsterdam 1659 (mit Kommentar von Abraham ben Josef ha-Lewi).

5) Amsterdam 1711 (wie 1).

6) Amsterdam 1724 (mit lateinischer Uebersetzung von Johannes Meyer).

7) Berlin 1734 (wie 4).

8) Amsterdam 1755 (wie 6).

9) Hamburg 1757 (zusammen mit *Seder 'Olam rabba* und *zuṭa*). Mit Noten von Jakob Emden.

10) Korez 1785 (zusammen mit *Sefer ha-Emuna weha-Bittahon*, *Otiyyot de-R. 'Aqiba*, Josef Geqatili's *Sefer ha-Niqqud* und *Sod ha-Ḥašmal*, *Sefer Ma'jan ha-Ḥokma* und *Petaḥ likkanes be-Ḥešbonej we-Šerufej Šemot ha-Qodeš 'al Derek ha-Emet*).

11) Prag 1795 (wie 1).

12) Grodno 1803.

13) Dyhernfurth 1810 (zusammen mit *Seder 'Olam zuṭa*).

14) Ostroh 1820 (wie 1).

15) Warschau 1839 (wie 13).

16) Lemberg 1848.

17) Königsberg um 1857–58 (zusammen mit *Megillat Antiochos*). Mit dem Kommentar von Abraham ben Josef ha-Lewi.

18) Berlin 1865 (wie 17).

19) Warschau 1874 (wie 13). Mit dem Kommentar von Jehuda Löb ben Menachem.

20) Oxford 1895 (in Neubauer, *Mediaeval Jewish Chronicles* II).

21) Lemberg 1905, mit Kommentar von M. Grossberg.

22) Jerusalem 1908.

23) Wilna 1925 (wie 19).

Nur den aramäischen Text geben Graetz (*Geschichte* III, Note 1, 1855, 1863, 1878, 1888, 1906), Derenbourg (*Essai sur l'histoire et la géographie de la Palestine*, 1867), Dalman *Aramäische Dialektproben*, 1896, 1927), Schwab (*Actes du onzième congrès international des orientalistes*, Paris 1897) und Zeitlin 1922.

Neubauer verglich als erster Handschriften, begnügte sich aber mit einem blossen Abdruck der Varianten. Die drei letzten Ausgaben bedeuten ihm gegenüber einen Rückschritt.

Im Folgenden ist der Versuch gemacht, auf Grund der Handschriften, der Erstausgabe, der Zitate bei mittelalterlichen Schriftstellern und der Parallelen in der talmudischen Literatur einen kritischen Text herzustellen.

Ich benutzte hierbei folgende Handschriften:

1.) 'D—Ms. De-Rossi 117, 4°, ff. 84b–90b (R. Biblioteca Palatina di Parma).

Die Papierhandschrift, in spanisch-rabbinischer Schrift, ist im Tischri 105 = 1344 vollendet worden. Der Text ist sorgfältig geschrieben. Er ist neben Šeda la-Derek (s. u.) der einzige Vertreter der spanischen Rezension. Diese kennt nur die Saddukäer als Gegner der Pharisäer, nie die Boethusäer. Eine gewisse Stilisierung zeigt sich in gelegentlichen Kürzungen, bisweilen unter Hinweis auf talmudische Parallelstellen. Ich benutzte eine Photographie der Handschrift.

2.) 'N—Ms. Michael 388, fol., ff. 193b–194a (Bodleiana in Oxford; Neubauer, *Cat.* 867, 2). Die Pergamenthandschrift, in italienischer Kursivschrift, enthält eine abgekürzte Redaktion der italienischen Rezension. Dem Redaktor lag noch ein älterer

Vertreter dieser Rezension vor, als ihn die uns erhaltenen Handschriften bieten. Bei der Kürzung achtete er darauf, dass die angeführten Bibelverse unangetastet blieben. Im übrigen ging er sowohl mit dem aramäischen wie mit dem hebräischen Texte sehr frei um. Bei manchen Tagen ist seine Zusammenfassung recht geschickt, bei anderen ohne Vergleich der übrigen Handschriften unverständlich. Als Gegner der Phariseer kennt er nur die Boethusäer, nie die Saddukäer.

3.) 'ג—Ms. Halberstam-Epstein, ff. 299a–310b (jetzt in der Bibliothek der israelitischen Kultusgemeinde Wien), beendet in Saloniki am 19. Schebat 5269 = 1509. Die Handschrift (Pergament) ist beschrieben von Marx in der *Zeitschrift für hebräische Bibliographie* V, 54–61; vgl. A. Z. Schwarz, *Die hebräischen Handschriften in Österreich* I, Leipzig 1931, Nr. 31. Sie und Ms. Michael sind die wertvollsten Vertreter der italienischen Rezension. Proben aus ihr veröffentlichte zuerst Joel Müller in der *Monatsschrift für Geschichte und Wissenschaft des Judentums* XXIV. Sie geht häufig mit Ms. Parma gegen die gedruckte Ausgabe und Ms. Cambridge. Herr Professor Alexander Marx (Jewish Theological Seminary of America, New York) hatte die Freundlichkeit, mir seine Kollation der Handschrift zur Verfügung zu stellen.

4.) 'ב—Ms. Opp. Add. fol. 55, f. 69a (Bodleiana in Oxford; Neubauer, *Catalogue* Nr. 2421, 10). Das Fragment (Pergament, Quadratschrift) entstammt der Genisa in Kairo. Es enthält den Schluss der Fastenrolle, beginnend mit dem 14.–15. Adar. Der Text weicht etwas von dem der Ausgaben, des Michaelschen und des Cambridger Manuskriptes ab. Mehrmals wird unter Hinweis auf Parallelstellen im Talmud gekürzt.

5.) 'פ—Ms. Add. 648, ff. 373a–377b (Cambridge University Library). Papierhandschrift, italienisch-rabbinische Schrift des 16.–17. Jahrhunderts. Fol. 2–21 enthalten eine Kopie des Midraš Šemuel ed. Konstantinopel 1517. Die Handschrift steht der gedruckten Ausgabe sehr nahe. Den Hinweis auf sie verdanke ich Herrn Dr. Herbert Loewe, Cambridge University.

6.) Wie eine Handschrift benutzte ich die Inhaltsangabe der Fastenrolle in Menahem ibn Zerahs *Šeda la-derek* (verfasst um 1369) VI, 8 nach Ms. Adler 1757, f. 185 (jetzt im Besitz des



Jewish Theological Seminary of America in New York; Herrn Professor Marx verdanke ich die Mitteilung der Varianten); Ms. Bodl. 893, 2, fol. 253a-b; Ms. British Museum 1168, ff. 290c-291c sowie der Erstausgabe Ferrara 1554.

Nicht benutzt habe ich folgende Handschriften:

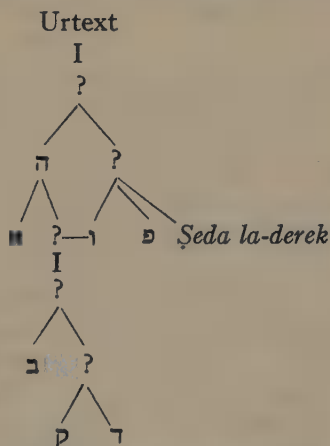
1.) Ms. der Bibliothek der israelitischen Kultusgemeinde Wien (Schwarz, *Handschriften* I, Nr. 30). Die Handschrift enthält auf ff. 39b-45a den Anfang der Fastenrolle (bis zum 15. Ab), eine Kopie der gedruckten Ausgabe.

2.) Codex Gaster 900, vollendet am 19. Adar b 603 = 1843, ebenfalls eine Abschrift der gedruckten Ausgabe (Mitteilung von Herrn Dr. Leveen, British Museum).

3.) Ms. III B 250 des Consistoire israélite de Paris (Schwab, *Revue des études juives* LXIII 108) enthält nicht die Fastenrolle, sondern das Verzeichnis der wirklichen Fasttage.

4.) Das von Marx in der *Zeitschrift für hebräische Bibliographie* V 60, Anm. 11 erwähnte Genisafragment der Frankfurter Stadtbibliothek ist nach Mitteilung von Herrn Professor Freimann seit Jahren nicht mehr auffindbar.—

Nach dem Gesagten ergibt sich folgender Stammbaum:



Dem Text war Ms. Parma zugrunde zu legen, soweit es selbständige Lesarten besitzt. Zur Ergänzung waren in erster Linie Mss. Michael und Wien heranzuziehen. Es wurde der

Versuch gemacht, vor allem nach inhaltlichen Kriterien sowie durch Vergleich der Zitate und Parallelen, den Kern des Scholions von späteren Erweiterungen zu sondern.

### III

#### DER HISTORISCHE WERT DER FASTENROLLE

In dem aramäischen Urtext besitzen wir ein Dokument, das bis ins 2. vorchristliche Jahrhundert zurückgeht und seine endgültige Gestalt um die Mitte des 1. nachchristlichen Jahrhunderts erhalten hat. Für die Zeit von den Makkabäerkämpfen bis zum Beginn des Jüdischen Krieges ist Josephus unsere Hauptquelle, und es wäre sehr erwünscht, seine Angaben an Hand eines tendenzfreien Dokuments, das die wichtigsten Daten enthält, kontrollieren zu können. Die Fastenrolle ist ein solches Dokument, wenn es gelingt, ihre kurzen Angaben mit Sicherheit zu identifizieren. Bei den meisten Tagen scheint dies möglich zu sein, allerdings häufig nicht im Einklang mit dem Scholion. Während dessen jüngere Teile keinen selbständigen Wert besitzen kann der Kern beanspruchen, als mündliche Tradition der talmudischen Zeit und ältester Erklärungsversuch neu gepreßt zu werden. Es ist a priori in jedem Falle möglich, dass in der talmudischen Zeit noch Erinnerungen an die Bedeutung der einzelnen Feiertage lebendig waren, und die Ungeschichtlichkeit des Scholions ist immer erst zu beweisen, nie vorauszusetzen. Für seinen historischen Wert spricht, dass es neben der mündlichen Tradition auch das 1. Makkabäerbuch benutzt hat, nie dagegen die Ausschmückungen des zweiten. In der überwiegenden Zahl der Tage scheint uns die Erklärung des Scholions zuzutreffen. Sehen wir von den biblischen Feiertagen sowie von denjenigen Tagen ab, bei denen sich die Zeit der Einsetzung nicht genau bestimmen lässt, so bleiben 29 Tage übrig, von denen 15 Siege der Hasmonäer über ihre Gegner feiern. Die Einsetzung von zweien von ihnen (13. Adar und 23. Ijjar) wird im ersten Makkabäerbuche erwähnt, und das spricht für die Zuverlässigkeit zumindest dieses Teiles der Liste. Schwierig und unsicher ist die Deutung der sechs antisaddukäischen Gedenktage, namentlich auch ihre zeitliche Festlegung. Neben der Zeit Alexander Jannais

und Salome Alexandras kommen bei vier von ihnen auch die Jahre vor Ausbruch des Krieges gegen Rom in Betracht. Der Gedenktag des 20. Adar wird durch Josephus bestätigt, wenn zwischen Scholion und ihm auch eine Differenz über die Zeit des Kreisziehers Onias besteht. Von den drei Gedenktagen aus römischer Zeit vor Ausbruch des Aufstandes ist sicher der aus dem Jahre 41, die Zurückziehung der Caligula-Statue. Hier werden Fastenrolle und Scholion in allen Einzelheiten von Josephus und Philon bestätigt. Wahrscheinlich ist die Beziehung auf die Zurückziehung der Feldzeichen durch Pilatus, unsicher Agrippas Mauerbau. Sicher erscheinen Deutung und Datierung der vier aus der Revolutionszeit stammenden Gedenktage: Der Abzug der Steuerpächter, der der römischen Beamten, die Wiederherstellung der Blutgerichtsbarkeit und die Einweihung der „3. Mauer“ im ersten Kriegsjahre.

## IV

## DIE SPRACHE DER FASTENROLLE

Im allgemeinen vgl. zum aramäischen Texte Dalman, *Grammatik des jüdisch-palästinensischen Aramäisch*,<sup>2</sup> Leipzig 1905, S. 8f.

Auffällig ist, dass in dem kurzen Texte nicht weniger als drei griechische Worte vorkommen: ἄκρα für die Burg in Jerusalem, δημοσιῶναι für die römischen Steuerpächter (vom Scholiasten nicht verstanden) und σημαῖαι für die römischen Feldzeichen. Die Verwendung dieser drei termini technici spricht für das Alter und die Authentizität des Textes.

Die Sprache des ursprünglichen Scholions gleicht derjenigen der aggadischen Teile des Talmuds, weniger der der Mischna. Von der der ältesten Midraschim (namentlich Genesis rabba) unterscheidet sie sich durch das fast völlige Fehlen aramäischer Lehnworte und die Vermeidung von Aramaismen. Aus der Gelehrtensprache stammt כתיב (8. Nissan, 23. Ijjar, 25. Siwan, 4. Tammus), aus der Volkssprache רכיך (27. Cheschan). Ein Aramaismus ist לא נצחחם אלא לאדם הריוט (25. Siwan).—Auffällig ist die altertümliche Verwendung von מלאך für „Bote“ (22.

<sup>2</sup> Vgl. Herzfeld, *Geschichte des Volkes Israel* II, S. 144f.

Schebat).—Ein Kunstmittel des Scholiasten sind die Dialoge, die er besonders in den Kontroversen der Phariseer mit den Saddukäern verwendet. Sie sollen nicht etwa den wirklichen Verlauf der Diskussion, sondern nur die benutzten Argumente wiedergeben—vergleichbar den Reden bei Thukydides, die so nicht gehalten worden sind, aus denen aber die Denkart der Personen spricht, denen sie in den Mund gelegt werden. Die zitierten Bibelstellen weichen häufig vom massoretischen Texte ab; dies erklärt sich durch Niederschrift aus dem Gedächtnis. Für die Textkritik der Bibel sind die Varianten also belanglos.

#### GRIECHISCHE UND LATEINISCHE LEHNWÖRTER

##### 1. Im aramäischen Text

ἄκρα — חקרא ('ה' פ') 23. Ijjar.

δημοσιῶναι — דימוסנאי ('ה' פ'); דמחונאי ('א') 25. Siwan.

σημαῖαι — סימואחא, 3. Kislew.

##### 2. Im Scholion

###### a) im älteren Teil

βουλευταί — בולייטין ('ה'); בליטין ('א'), 21. Kislew.

διπλῆ = διπλωμα — דיופלי ('א' פ'); דיופלא ('ו'); דיופלה ('ד' ק'), 12. Adar.

δυ-εικῶν — דיוקן ('א' ה'), 21. Kislew.

ἰδιώτης — הדיוט ('ה' פ'), 25. Siwan.

πολέμαρχος — פולמורדוס, ('פ') 13. Adar.

συνέδριον — סנדרין ('פ'); סנהדרין ('א' ה'), 4. Elul; 28. Tebet.

ὑπαρχοι — הפרכין ('ה'), 13. Adar.

φιλόσοφοι — פילוסופים ('ה'), 25. Siwan.

castra — קסטריאות ('ד' ק'); קסטריות ('ו'), 17. Elul.

matrona — מטרונת ('ב' פ'); מטרוניתא ('ו' ק' ד'), 28. Adar.

###### b) in den späteren Zusätzen

ἐμπίλια — אנפילאות, אנפליאות, אנפילאות ('ד' ק' פ'), 25. Siwan.

ἐπίτροπος — אפטרופוס ('ה'), 20. Adar.

κάλαμοι — קולמוסין ('ה'), Schluss.

περσικά — אפרסקין ('ה'), 20. Adar.

carruca — קרוכין ('ה'), 13. Adar.

libellarii — לבלריים ('ה' פ'), Schluss.

praesidia — פרדסיאות ('ה'), 15. Ab.

## V

## ERKLÄRUNG DER EINZELNEN TAGE

Grundlegend ist Graetz, *Geschichte* III, Note 1. Nächst Pinner schied er zuerst scharf zwischen Text und Scholion. Trotzdem hat er den Wert des Scholions wohl noch überschätzt. Cassel war bemüht, möglichst viele Tage der Makkabäerzeit zuzuweisen, was ihn gelegentlich zu künstlicher Auslegung verleitete. Leszynsky und Zeitlin leugnen die Existenz antisaddukäischer Gedenktage. Nach Zeitlin enthält die Fastenrolle nur solche Tage, die von der ganzen Nation begangen werden konnten. Einen Beweis für diese Behauptung hat er nicht erbracht. Nach dem Vorgange von Niese und Eduard Schwartz vertritt er die Ansicht, dass Josephus im „Jüdischen Krieg“ immer nach dem tyrischen Kalender rechnet, weil dieser damals in Palästina gebräuchlich war. Aber das Beispiel des 7. Kislew zeigt, dass diese Voraussetzung nicht zutrifft. Zeitlin ist bestrebt, möglichst viele Daten in den Beginn des Jüdischen Krieges zu setzen, aber ähnlich wie bei Cassel geht es auch bei ihm gelegentlich nicht ohne Gewalttatsachen ab. Die allgemeine Beurteilung der Fastenrolle hat sich aus der Kritik der einzelnen Tage zu ergeben, nicht aber umgekehrt.

Ich bespreche die Tage in folgender Reihenfolge:

- A. Biblische Feiertage.
- B. Feiertage aus unbestimmter Zeit.
- C. Hasmonäische Gedenktage:
  - 1. Unter Juda,
  - 2. Unter Jonathan,
  - 3. Unter Simon,
  - 4. Unter Johann Hyrkan.
- D. Antisaddukäische Gedenktage.
- E. Zeit der letzten Hasmonäer.
- F. Gedenktage aus römischer Zeit:
  - 1. Vor Ausbruch des Aufstandes,
  - 2. Revolutions-Gedenktage.



## A. BIBLISCHE FEIERTAGE

## I. 14. Ijjar.

*Am 14. des Monats ist das kleine Pessach. Nicht zu trauern und nicht zu fasten.*

Das Scholion ist eine bloße Aneinanderreihung von Mischna—und Talmudstellen, die einen Schluss vom Leichten aufs Schwere enthalten—veranlasst durch die Erwähnung des aramäischen Textes an einer von ihnen (Hull. 129b). Offenbar hatte es nichts zu erklären, da das 2. Pessach ja in der Bibel eingesetzt ist (Nu. 9.9–12). Die Identifizierung wird auch von Graetz, Derenbourg und Leszyński (*Die Sadduzäer* S. 68, Anm. 1) übernommen. Zeitlin nimmt an, der Tag beziehe sich auf eine Zeit, in der die hasmonäischen Hohepriester gegen die Syrer im Felde lagen und deshalb das Pessach nicht rechtzeitig begehen konnten. Aber es ist wenig wahrscheinlich, dass Mitte Ijjar (Anfang Mai) die Kämpfe schon wieder beendet sein sollten. Wenn man ausserdem irgendwelche Siege hätte feiern wollen, so hätte und hat man den Tag der betreffenden Schlacht dazu gewählt. So wird die traditionelle Auffassung wohl das Richtige treffen.

## II. 14. und 15. Adar.

*Der 14. des Monats und der 15. des Monats sind die Purimtage; nicht zu trauern.*

Das Scholion zerfällt in zwei Teile. Der erste (nur in Ms. Parma) erinnert einfach an Mordechai und Esther. Der zweite (in den übrigen Handschriften und der Druckausgabe) vergleicht das Purim mit dem Pessachfeste.

## B. FEIERTAGE AUS UNBESTIMMTER ZEIT

## III. 15. Ab.

*Am 15. Ab ist die Zeit der Hölzer der Priester. Nicht zu trauern.*

Zum Text: Ms. Parma hat nur den ersten, von den Parallelstellen unabhängigen Teil des Scholions mit der Baraita, die wir aus dem palästinensischen Talmud kennen; beides fehlt in Ms. Michael. Dort stammt das Scholion aus der Mischna (Ta'an. 4.5, doch s. u.), dem palästinensischen Talmud (ibid. 4.7, 68b) und wohl der Tosefta (ibid. 4.5; der Abschnitt findet sich ausser-

dem im palästinensischen [Ta'an. 4.6, 68b; Meg. 1.6, 70c; Šek. 4.1, 47d] und im babylonischen Talmud [Ta'an. 28a]); ohne Parallele ist nur der Satz: „Eine andere Erklärung: Die Menge kam zusammen und erklärte ihn zum Feiertage;“ auf ihn folgt noch ein Stück aus dem babylonischen Talmud (Ta'an. 12a = 'Erub. 41a).—Der Vulgatatext enthält: den selbständigen Teil des Scholions mit der Baraita (wie Ms. Parma), ein Stück aus der Mischna (Ta'an. 4.5, wie in Ms. Michael), der Tosefta (ibid. 4.7–8, allerdings beeinflusst vom babylonischen Talmud ibid. 28a) und nochmals aus der Tosefta (ibid. 4.5), dazu wieder den Satz: „Eine andere Erklärung: Die Menge kam zusammen und erklärte ihn zum Feiertage;“ eingeschoben mitten in die Tosefta Ta'an. 4.6.

Es ergibt sich also folgende Uebersicht:

	MS. PARMA	MS. MICHAEL	VULGATA
1. Selbständig und Baraita		————	Selbständig und Baraita
2. —————		Mischna Ta'an. 4.5	Mischna Ta'an. 4.5
3. —————		Pal. Ta'an. 4.7	Tosefta Ta'an. 4.7–8 (bab. Ta'anit 28a)
4. —————		Tosefta Ta'an. 4.5	Tosefta Ta'an. 4.5–6
5. —————		Selbständig	Selbständig
6. —————		————	Tosefta Ta'an. 4.6
7. —————		Babyl. Ta'an. 12a	Tosefta Ta'an. 4.6

Das 3., 4., 6. und 7. Stück scheinen Erweiterungen des ursprünglichen Scholions zu sein.

Aber auch die übrigen Teile sind überarbeitet worden. Im 1. Abschnitt setzt die Vulgata zu der ursprünglichen Erklärung der abgekürzt angeführten Baraita aus dem palästinensischen Talmud noch die Worte hinzu: „und selbstverständlich erst recht bei Sühnopfern, Schuldopfern, Gelübden, Spenden, Erstlingsopfern, Zehnten, Dank- und Ganzopfern.“ Im 2. Abschnitt sind in Ms. Michael und der Vulgata zum Text der Mischna noch die im Folgenden gesperrten Worte hinzugefügt: **בַּחֲמֶשָּׁה עֶשְׂרֵי בּוּ בְּנֵי זְתוּא בֶּן יְהוּדָה וְעִמְהֶם (בְּנֵי הַ) כַּהֲנִים וְלוֹיִים (וְיִשְׂרָאֵלִים) וְכָל (וְ)נָרִים וְנִתְיָנִים וּמִזְרִים וְעֹבְדִים (מְשֻׁחָרְרִים) וְכָל מִי שֶׁשָּׁעָה בִּשְׁבָטוֹ וּבְנֵי גוֹבִי עָלֵיו וּבְנֵי קוֹצְעֵי קִצְעוֹת (וּבְנֵי שְׁלָמִי הַנְּטוּפִתִּי)**. (Die eingeklammerten Worte stehen nur in der Vulgata, nicht aber in Ms. Michael).

Erklärung: „Es erklärte Rabban Simon ben Gamliel (um

130–160 p.): Israel hatte kein höheres Fest als den 15. Ab und den Versöhnungstag" (Ta'an. 4.8). Merkwürdigerweise war den Späteren die Veranlassung dieses Festes völlig unbekannt (Ta'an. 30b; B. B. 121a). Von den verschiedenen im Talmud gegebenen Begründungen finden sich zwei in Šeda la-Derek wieder: dass an diesem Tage das Geschlecht der Wüstenwanderung ausgestorben sei und dass es der letzte Tag gewesen sei, an dem man Holz für den Altar fällen durfte. Die zweite Begründung dürfte auf guter Tradition beruhen.<sup>3</sup> Die Mischna (Ta'an. 4.5), die auch vom Scholiasten zitiert wird, nennt neun Tage, an denen verschiedene Geschlechter Opferholz lieferten, darunter am 10. Ab „die Nachkommen Senuas vom Stamme Benjamin" und am 15. Ab „die Nachkommen Sattus vom Stamme Juda und mit ihnen die (Söhne der) Priester, Lewiten, (Beisassen, Knechte des Heiligtums, Bastarde und Freigelassene) sowie jeder, der seinen Stamm nicht genau kannte, sowie die Nachkommen der Gonbe 'Eli, der Koš'e Kešit'ot (und die Salmais aus Netofa)." (Die eingeklammerten Worte setzt der Scholiast, bzw. der Talmud zum Text der Mischna hinzu). Josephus (B II 425.430) sagt, dass am 14. Lous „alle" Holz zum Altar zu bringen pflegten, was, wenn auch ungenau, der Angabe der Mischna entspricht. Wie der Talmud begnügt sich aber auch der Scholiast nicht mit dem Herkommen, sondern sucht nach einer historischen oder gesetzlichen Veranlassung des Festes. Jedoch reichen seine Begründungen nicht aus.

1.) Unerklärt bleibt, weshalb gerade der 15. Ab für den Rest der Heimkehrenden bestimmt wird. Die angeführte Baraita gilt für jeden Tag, an dem man ein Opfer darbrachte, nicht nur für unsern.

2.) Die Tradition, dass der Feiertag nicht ordnungsgemäss durch das Synhedrion, sondern durch das Volk eingesetzt wurde, erklärt erst recht nichts.

Daher zieht ein späterer Scholiast (in den Handschriften der italienischen Rezension) eine Reihe Erzählungen aus der talmudischen Literatur heran. Aber diese Sagen, die sich auf die Zeit Jerobeams I. (in Ms. Michael) oder die der „frevelfhaften Regierung" (in der Vulgata; nach Graetz ist Alexander Jannai, nach

<sup>3</sup> Blicke in die Religionsgeschichte I, S. 15; vgl. II, S. 187.

Krauss, *HUCA* I, S. 190, Anm. 46 Antiochos Epiphanes gemeint) und Nehemias (in der Vulgata) beziehen, sind offenbar erst in später Zeit erfunden worden, um die unverständlichen Geschlechternamen Gonbe 'Eli und  $\text{Κοσ'ε Κεσι'ot}$  zu erklären.

Das Fest wird sich allmählich aus der grösseren Beteiligung des Volkes an diesem Tage entwickelt haben, nicht aber, wie Derenbourg (*Essai* S. 109, Anm. 2) will, schon von Nehemia eingerichtet worden sein. Dass Josephus mit den Worten:  $\tau\eta\varsigma\ \tau\omega\acute{\nu}\ \xi\upsilon\lambda\omicron\phi\omicron\rho\acute{\iota}\omega\acute{\nu}\ \epsilon\omicron\rho\tau\eta\varsigma\ \omicron\upsilon\sigma\eta\varsigma,\ \acute{\epsilon}\nu\ \eta\ \pi\acute{\alpha}\sigma\iota\nu\ \epsilon\theta\omicron\varsigma\ \epsilon\lambda\eta\nu\ \tau\omega\ \beta\omega\mu\omega\ \pi\rho\sigma\phi\acute{\epsilon}\rho\epsilon\iota\nu$  einen der acht anderen Tage meinen sollte, an denen zudem die Mischna nichts von einer Beteiligung weiterer Kreise weiss, erscheint mir ausgeschlossen. Der 14. statt des 15. beruht entweder auf Flüchtigkeit, oder Josephus rechnete nach einem bekannten Grundsatz den Vorabend des Festes schon als Festtag (gegen Zeitlin, der den 14. Lous mit dem 10. Elul identifiziert; dieser ist in 2 Hss. statt des 20. als Feiertag des Hauses Adin genannt).

#### IV. 2. Schebat.

*Der 2. Schebat ist ein Feiertag, und nicht zu trauern.*

Zum Text: Ms. Cambridge und die Druckausgabe haben am Schluss des Scholions mehrere allgemeine Bemerkungen zur Fastenrolle, die besser an den Schluss gehören; dort finden sie sich auch in Mss. Michael und Wien.

Erklärung: Wie beim 7. Kislew, so fehlt auch hier die Begründung. Zeitlin setzt beide Tage in den Beginn des Aufstandes gegen Rom, ohne jedoch eine genaue Begründung geben zu können. Der Scholiast und Hochfeld (*ZAW* XXII 280) denken bei unserem Tage an Alexander Jannais Todestag. Die Erzählung über die befohlene Hinrichtung der pharisäischen Gesetzeslehrer und ihre Errettung durch Salome bezieht sich aber nicht auf Salome Alexandra, sondern auf Herodes' Schwester Salome (Jos. B I 33, 6. 8; A XVII 173–179. 193). So wird wohl auch das Scholion ursprünglich Herodes' Todestag auf den 2. Schebat (so noch Graetz und Schwab S. 243) und den Alexander Jannais auf den 7. Kislew gesetzt haben. Nun ist Herodes aber Ende Adar oder Anfang Nissan gestorben (Schürer I, S. 415, Anm. 167). Paulus Cassel *Messianische Stellen* . . . S. 77–80) emendiert בחרין in

עשר בחרין עשר unter Bezug auf Dan. 12. 11–12. Die dort genannten 45 Tage seien vom 25. Kislew an zu rechnen; dann falle Antiochos Epiphanes' Tod auf den 12. Schebat. Sein Name sei mit Rücksicht auf die römische Regierung nicht genannt. Aber die Römer selbst kommen in der Fastenrolle vor (17. Elul)! So bleibt die Deutung des Tages ungewiss.

#### V. 8. und 9. Adar.

*Der 8. und 9. Adar ist der Tag des Posaunenblasens um Regen.*

Das Scholion hat hier einen Hinweis darauf, dass die Zusammenstellung der verschiedenen Gedenktage innerhalb der einzelnen Monate nichts über die Zeitfolge der gefeierten Geschehnisse besagt. Das ist an sich selbstverständlich. Wenn der Scholiast aber gerade an dieser Stelle darauf hinweist, so will er damit seine Erklärung rechtfertigen, dass die beiden Gedenktage aus verschiedenen Jahren stammen. Nach Derenbourg (S. 112, Anm. 1) fastete man in den ersten beiden Jahren der Dürre am 8., bzw. 9. Adar; im dritten Jahre begann es dann am 20. Adar zu regnen. Schwab (S. 242) wieder vermutet, dass man am 8. und 9. Adar gefastet habe und dass dann der Regen am 20. Adar desselben Jahres eingetroffen sei. Aber Zeitlin macht mit Recht darauf aufmerksam, dass es verboten war, an zwei aufeinander folgenden Tagen zu fasten und dass es nicht יומי, sondern יום heisst. Das bestätigt die Auffassung des Scholions. Näheres lässt sich nicht feststellen.

#### VI. 12. Adar.

*Der 12. des Monats ist der Tag טירין. (Am 12. des Monats ist der Trajanstag.)*

Der Tag טירין wird nur im palästinensischen Talmud erwähnt. Nach Jakob bar Acha (1. Hälfte des 3. nachchristlichen Jahrhunderts) wurde der Freudentag abgeschafft, weil an diesem Tage zwei Märtyrer Lulianos (= Julianus?) und Pappos den Tod fanden. In der sonstigen talmudischen Literatur wird stets der Trajanstag genannt, der aus demselben Grunde abgeschafft worden sein soll. In den Handschriften der Fastenrolle fehlt der Tag טירין vollständig; der Trajanstag findet sich in dem Text der Vulgatahandschriften. Alle Versuche, das rätsethaffe טירין



zu erklären, sind gescheitert. Cassel (S. 84–86) emendierte es zu טירין = Σήρων (I Mak. 3. 26). Aber dort ist nicht erwähnt, dass der Tag alljährlich gefeiert wurde. Zeitlin wollte in טירין die Rekruten (טרפון) von Josephus B II 649 oder Herodes' τυραννίς wiederfinden. Aber zu der ersten Auslegung passt der Singular nicht (übrigens kommt τέρων gar nicht vor, es ist nur von den νέοι die Rede), und dann ist nichts davon gesagt, dass an einem bestimmten Tage in den Gymnasien besondere Uebungen für die νέοι begannen. Zu der Form טירין stimmt, worauf Dalman aufmerksam gemacht hat, besser als τυραννίς das Wort τυραννείον, „Herrschersitz,“ wie Josephus (B V 169) Herodes' Palast als Sitz des aufständischen Simon nennt. Aber eine solche Bezeichnung gehört nicht in die Fastenrolle.—Der „Trajanstag“ soll nach Joel<sup>1</sup> aus Freude über die Erlaubnis zum Tempelbau eingesetzt worden sein. In Bezug auf das Scholion wird Schürers Erklärung (I 660, Anm. 62) das Richtige treffen: „Wahrscheinlich liegt der Sage eine dunkle Erinnerung daran zu Grunde, dass Lusius Quietus, der Bedränger der Juden, von Hadrian abberufen und später hingerichtet wurde“ (Spartian. Hadr. 5 und 7; ähnlich Graetz IV 414). Krauss (REJ XXX 211) verstand unter טורינוס (Var. טרכינוס) Marcus Turbo, der unter Trajan den Aufstand in Kyrene niederschlug.—Eine sichere Erklärung lässt sich nicht geben.

### VII. 22. Adar

s. No. XXX.

## C. HASMONÄISCHE GEDENKTAGE

### 1. Unter Juda

### VIII. 23. Marcheschwan.

*Am 23. Marcheschwan wurde das Gitter aus dem Vorhof beseitigt.*

Graetz setzt das Scholion zum 3. Kislew. Dann bliebe aber der 23. Marcheschwan als einziger Tag ohne Scholion. Graetz erkannte die Uebereinstimmung des Scholions mit I Mak. 4.44–46. Da er in den סימאחא des 3. Kislew die λίθοι τοῦ μiasμοῦ von I Mak. 4.43 wiederfand, glaubte er, dass der Scholiast wie der Verfasser des 1. Makkabäerbuches die λίθοι τοῦ μiasμοῦ

und die Steine des Ganzopferaltars hintereinander erwähnt habe. Unter סורינא verstand er ein Gitter, das mit Flechtwerk geschmückt war (vgl. מירחא in Ms. Michael). Dass dies zutrifft, zeigen die einzige Stelle der Mischna, die das Wort kennt (סורג, Midd. 2.3), und Josephus (B V 193): *δρύφακτος . . . λίθινος . . . πάντ . . . χαριέντως διειργασμένος*. Von diesem Gitter sagt die Mischna: 13 Risse waren an ihm, die die griechischen Könige verursacht hatten; später hatte man sie wieder beseitigt (יג פרצות היו בו שפרצום מלכי יון חזרו ונדרום). Dies setzten Graetz und Schwab (S. 220ff.) nun weiter gleich mit Alkimos' Versuch, die innere Tempelmauer niederzureissen (I Mak. 9.54–56. Das ist völlig unhaltbar. Τὸ τεῖχος τῆς αὐλῆς τῶν ἀγίων τῆς ἐσωτέρας kann nicht mit der von der Mischna und Josephus genannten Ballustrade identisch sein. Um unser סורינא mit dem סורג der Mischna gleichsetzen zu können, muss Graetz aber weiter die אסתחתם in אסתחך und אבנים טמאות in אבנים טובות diעזרתא in מן עזרתא die Korrektur von סיתרו (so allerdings in Ms. Michael, dort aber סיתרו). Diese Häufung von Emendationen macht die Verbindung mit der Mischna und dem 1. Makkabäerbuche, so verlockend sie wäre, unmöglich. Derenbourg (*Essai* S. 61), Klausner<sup>4</sup> und Zeitlin übersehen, dass es sich in I Mak. 4.43 und 44–46 um verschiedene Steine handelt, und verstehen unter סורינא eine Anhäufung von Steinen oberhalb des Altars (Derenbourg) oder Steine in Form eines Altars (Zeitlin)—beides sprachlich unmöglich.— Von einem Gitter, das nach Cassel (S. 108) die Syrer aufgerichtet hätten, um den Israeliten das Betreten des Tempels zu verwehren, ist nicht nur im 1. Makkabäerbuche keine Rede, vielmehr berichtet dieses (1.59), dass am 25. Kislew griechische Opfer im Tempel dargebracht wurden, sicherlich unter Beteiligung der Hellenisten (vgl. auch Ed. Meyer, *Ursprung und Anfänge des Christentums* II, S. 159).—Das Richtige gibt das Scholion: Die Griechen hatten einen „Platz“ für Dirnen „erbaut.“ Die Hasmonäer zerstörten ihn und fanden dort Edelsteine. Diese verwahrten sie, bis Elia einst entscheiden würde, ob sie rein oder unrein seien. Das letzte ist eine Verwechslung mit den Steinen des Ganzopferaltars

<sup>4</sup> II 15. היסטוריה ישראלית

(I Mak. 4.44–46; Midd. 1.6; vgl. Ed. Meyer S. 209). Mit den Dirnen, deren Bezirk durch eine Ballustrade abgeschlossen sein sollte, sind wohl Tempelprostituierte gemeint. Diese sind zwar griechischen, nicht aber syrischen Kulturen fremd, und das 2. Makkabäerbuch berichtet, dass die Heiden im Heiligtum „sich mit Dirnen belustigten und in den heiligen Vorhöfen Weibern beiwohnten.“<sup>5</sup> Die Reinigung des Tempels von den Dirnen wird also an unserm Tage gefeiert.

#### IX. 25. Kislew

*Am 25. des Monats ist das Chanukkafest acht Tage; an ihnen ist es verboten zu trauern.*

Der Tag feiert Judas Tempelweihe (vgl. Ed. Meyer S. 209). Der Schluss des Scholions stammt völlig aus dem babylonischen Talmud (Šabb. 21b) und dem Traktate Šoferim (20). In den vorhergehenden Teilen sind eine Anzahl Begründungen für die Einsetzung und Gestaltung des Festes vereinigt. Dass das Oel wunderbarerweise für acht Tage reichte, wird auch im babylonischen Talmud (Šabb. 21b) berichtet, im Anschluss an den dort zitierten aramäischen Text der Fastenrolle. Erst eine späte rabbinische Verordnung lässt Oel durch Berührung eines Nichtjuden unrein werden. Nach dem älteren Religionsgesetz verunreinigt eine solche Berührung nicht (Leszynsky, *MGWJ* LV 402, Anm. 1)—ein Beweis, dass dieser Teil des Scholions jung ist. Die Herstellung von Notleuchtern aus Eisen und Zinn ist in anderer Form auch dem Tannaiten Jose ben Jehuda (um 200 p.) bekannt (R. H. 24b und Parallelstellen). Nach ihm wurden die Notleuchter, als mehr Mittel zur Verfügung standen, durch silberne, und diese, als man noch reicher wurde, durch goldene Leuchter ersetzt. Sondern wir zu Anfang das Wunder mit dem Oel und zum Schluss die dem Talmud entlehnten Abschnitte aus, so bleibt übrig: Das Fest dauerte acht Tage, weil die Ausbesserung des Altars so lange in Anspruch nahm (genau ebenso I Mak. 4.59), und man zündet Lichter an zur Erinnerung an die Notleuchter der Hasmonäer (die Bezeichnung  $\varphi\omega\tau\alpha$  für das Fest

<sup>5</sup> 6.4–5:  $\rho\alpha\delta\upsilon\mu\acute{o}\nu\tau\omega\upsilon\kappa\alpha\iota\ \acute{\epsilon}\tau\alpha\iota\rho\acute{\omega}\nu\ \kappa\alpha\iota\ \acute{\epsilon}\nu\ \tau\omicron\iota\varsigma\ \iota\epsilon\rho\acute{\iota}\varsigma\ \pi\epsilon\rho\iota\beta\acute{o}\lambda\omega\upsilon$  (Cod. Venetus  $\pi\epsilon\rho\iota\beta\acute{o}\lambda\omicron\iota\varsigma$ )  $\gamma\upsilon\upsilon\kappa\alpha\iota\ \acute{\epsilon}\lambda\ \pi\lambda\eta\sigma\iota\alpha\zeta\acute{o}\nu\tau\omega\upsilon$ .

findet sich bekanntlich zuerst bei Josephus, A XII 325, der ihr eine eigene Auslegung gibt). Dieser Kern des Scholions wird durchaus historisch sein.<sup>6</sup>—Graetz (*MGWJ* XXVIII 202ff. und *Kommentar zu den Psalmen* I 56f.) nimmt an, dass die sog. Hallelsalmen (113–118) ursprünglich für das Chanukkafest bestimmt waren und erst später auch in die Liturgie anderer Feste eindringen. Seine Ansicht fände an dem Scholion eine Stütze. Dass sie der späteren Zeit der Psalmendichtung angehören, ist die allgemeine Ansicht; nur wird Psalm 114 meistens dem Passahfeste zugewiesen.

#### *X. 8. Nissan und folgende Tage.*

*Vom 8. des Monats bis zum Ende der festgesetzten Zeit wurde das Fest wiederhergestellt. Nicht zu fasten und nicht zu trauern.*

Zum Text: In den ersten beiden Teilen des Scholions wird auseinandergesetzt, dass die Bibel Feiertage häufig als Sabbate bezeichnet. Diese Teile sind nur in Ms. Michael erhalten. Der Disput Rabban Jochanan ben Zakkais mit einem Boethusäer findet sich in sämtlichen Handschriften; er entstammt der Parallelstelle im Talmud (Men. 65a; vgl. Raschi). Die Erklärungen R. Josuas, R. Ismaels und R. Jehuda ben Bateras fehlen in Mss. Parma und Michael, die R. Eliesers in Ms. Parma und die R. Jehudas in Ms. Michael; sie stammen ebenfalls aus Men. 65a–66a und bieten eine bloße Bekräftigung des vorhergehenden Beweises.

Erklärung: Leszynsky (S. 57ff.) hält den Streit zwischen Boethusäern und Pharisäern für geschichtlich, nicht aber die Beziehung auf den Tag der Fastenrolle. Strittig wäre die Zeit des pharisäischen Sieges. Das Scholion, dem Graetz, Schwab (S. 236f.), Ad. Schwarz (*MGWJ* LXIII 233ff.) und Finkelstein folgen, erklärt die „Wiederherstellung des Festes“ mit der Entscheidung im Streite zwischen den Boethusäern und Pharisäern, ob die Pflichtgarbe (das Omer) an dem in die Festwoche fallenden Sabbat oder am 2. Tage des Pessach darzubringen sei und ob dementsprechend das 7 Wochen später liegende Wochenfest immer auf einen Sonntag fallen müsse. Die Pharisäer ver-

<sup>6</sup> Hochfeld (*ZAW* XXII 274) findet in der Erzählung von den Notleuchtern unnötigerweise das Moment der kultischen Reinheit und muss sie deshalb einer späteren Zeit zuweisen.

standen nämlich unter dem „Sabbat“ Lev. 23.11, 15 den 1. Pessachtag, und diese Auslegung müsste eine Zeitlang zurückgedrängt, dann aber wieder zum Siege gebracht worden sein. Nach Lauterbach (*HUCA* VI 105f.) bekämpften die Pharisäer die naheliegende Gleichsetzung des Sabbats mit dem Saturnstage und bezeichneten deshalb jeden Feiertag, der gleichzeitig ein Ruhetag war, als Saturnstag. Der Sabbat sollte nicht, wie die Saddukäer lehrten, ein Tabutag sein, an dem jedes Beginnen unglücklich auslief, sondern ein Tag des Ruhens und der Freude. Nach Finkelstein (*Harvard Theological Review* XXII 203ff.) richtete sich die Opposition der Saddukäer gegen die Feier der Gesetzgebung am Wochenfeste, wie es die Pharisäer wollten; für sie war dieses ein landwirtschaftliches Fest, dessen genaue kalendarische Festlegung nicht so wichtig war.—Die „festgesetzte Zeit“ wird mit Beginn des Pessachfestes ablaufen, da an den Feiertagen ohnehin Fasten und Trauern verboten ist. Vielleicht ist aber סוף zu streichen und unter מועדא das Pessachfest selbst zu verstehen (so Leszynsky, *Die Sadduzäer* S. 59, Anm. 1). Unter Johann Hyrkan oder Alexander Jannai wissen wir nichts von Boethusäern. Sowohl die Septuaginta (Lev. 23.11) wie Philon (de septenario §20, ed. Mang. II 294) und Josephus (A III 250) bezeugen andererseits die pharisäische Praxis (vgl. Geiger, *Urschrift* S. 138; Schürer II 483). Die letzten Jahre vor dem Kriege gegen Rom, die Zeit Rabban Jochanan ben Zakkais, werden damit vollends ausgeschlossen, wenn man nicht mit Wellhausen (S. 60) an eine rein theoretische Häresie der Saddukäer denken will (vgl. auch J. T., *ZfHB* IX 134f.). Auch wenn wir aber, im Widerspruch zu sämtlichen Zeugen (mit Ausnahme von Ms. Parma und *Šeda la-Derek*, die aber die Boethusäer überhaupt nicht kennen), die Saddukäer für die Boethusäer einsetzen, lässt sich die Erklärung des Scholions kaum mit dem Wortlaut „das Fest wurde wiederhergestellt“ vereinen. Zeitlins Erklärung, die Zwischenzeit zwischen der ersten Festwoche im Nisan und dem Pessach sei nach der Einweihung des zweiten Tempels zu Feiertagen erklärt worden, um die Landleute bis zum Pessach in Jerusalem festzuhalten, wäre auch dann ein blosser Notbehelf, wenn seine Erklärung der ersten Woche zuträfe. Eine „Wiederherstellung des Festes,“ die Anfang Nisan gefeiert wird, kann sich



nur auf die erste Feier des Pessach nach den Makkabäerkämpfen beziehen, und deshalb scheint mir Ginzbergs Erklärung (bei Zeitlin S. 76, Anm. 209) zuzutreffen, dass die Kämpfer sich in dieser Woche von der Berührung mit Leichen gereinigt und zur Erinnerung hieran die sieben Tage zu Feiertagen erklärt haben.

# XI. 24. Ab.

*Am 24. des Monats kehrten wir zu unserem Rechte zurück.*

Zum Text: R. Samuel ben Meir (12. Jht.) las in seinem Exemplar: „Am 24. des Monats,“ was er auf den Tebet bezog. Seine Erklärung wurde in die späteren Talmuddrucke übernommen. Da aber im Tebet nur der 28. Tag genannt ist, müsste der Text lauten: „Am 24. Tebet;“ es muss sich daher um ein Missverständnis handeln (so Ad. Schwarz, *REJ* LXIII 51–62; anders Malter bei Zeitlin und dieser selbst).

Erklärung: Das Scholion enthält in den Vulgatahandschriften zwei Erklärungen; in Ms. Michael und Ms. Parma ist je eine fortgelassen. Die Beziehung auf die Hasmonäerzeit ist ohne Parallele, während die Auseinandersetzung mit den Saddukäern sich im Talmud wiederfindet. Gegen die zweite Erklärung (die Schwab S. 235 akzeptiert) spricht ferner, dass schon der 28. Tebet die Niederlage der Saddukäer feiert; da ist es sehr unwahrscheinlich, dass die Durchsetzung des pharisäischen Prinzips in einem recht seltenen Erbfolge Anlass zur Einsetzung eines neuen Feiertages gegeben haben sollte).<sup>7</sup> Andererseits ist nicht mit Zeitlin anzunehmen, dass es sich um eine blosse Dublette zum 28. Tebet handelt. Ebenso wenig liegt Grund vor, mit Graetz den Tag auf die Zeit Agrippas I. oder des Aufstandes gegen Rom zu beziehen. Dafür passt sachlich viel besser der 22. Elul. Gegen die erste Erklärung des Scholions ist gar nichts einzuwenden. Der Tag feiert mithin die Wiederherstellung der jüdischen Gerichtshoheit durch Juda (anders Cassel S. 107 und Dalman).—Geiger<sup>8</sup> erblickt in dem Streit um das Erbrecht der Tochter eine versteckte Auseinandersetzung um die Legitimität von Herodes' Königtum. Herodes besass es nach saddukäischer

<sup>7</sup> Vgl. Ad. Schwarz, *REJ* LXIII 51–62 und J. T., *ZfHB* IX 134f.

<sup>8</sup> *Urschrift* S. 143f. und besonders אורזר נחמר III 1ff. = *Urschrift*, Anhang S. 5f.

Anschauung als Gatte Mariammes, der Tochter Alexandras und Enkelin Hyrkans; die Phariseer bestritten die Rechtmässigkeit dieser Erbfolge. Das würde die Bedeutung der Auseinandersetzung erklären. Aber auch Geiger behauptet nicht, dass der Feiertag den pharisäischen Sieg in diesem Streite feiert. Aptowitzer (*HUCA* IV 227f.) findet in der saddukäischen Anschauung eine Spur des Matriarchats.

### *XII. 28. Adar.*

*Am 28. des Monats kam die gute Botschaft für die Juden, dass sie nicht von der Lehre zu weichen brauchten. Nicht zu trauern.*

Der Scholiast, Graetz, Schmilg<sup>9</sup> und Schlatter (Anm. 387) beziehen den Tag auf das Ende der Hadrianischen Verfolgung. Es wäre dann aber der einzige Gedenktag für ein Ereignis, das nach den Jüdischen Krieg fällt. Deshalb ist eine andere Erklärung wahrscheinlicher. Derenbourg (S. 59), Cassel (S. 108ff.) und Dalman denken an den Brief Antiochos' V. (II Mak. 11.27–33). Nun ist dieser aber vom 15. Xanthikos 148 Sel. datiert, und dieser Monat fällt im syro-makedonischen Kalender mit April zusammen (Bischoff, *RE* X 1595). Andererseits muss Antiochos' Abzug von Jerusalem nach dem Tod seines Vaters (149 Sel., I Mak. 6.16) fallen, denn erst dann konnte Philippos das Heer nach Syrien zurückführen (ibid. 56). Im Jahre 150 Sel. (I Mak. 6.20) belagerte Juda die Akra, und Lysias machte sich in Begleitung des jungen Antiochos Eupator auf, die Belagerten zu entsetzen. Während die Syrer Juda belagerten, kamen die Nachrichten von Philippos' Auftreten, und daraufhin erfolgte dann Antiochos' neues Schreiben an Lysias, das allgemeine Religionsfreiheit verbürgte (II Mak. 11.22–26). Auf dieses bezieht sich somit unser Tag.—Dass die beiden Briefe aus verschiedener Zeit stammen, haben Laqueur (*HZ* CXXXVI 229ff.) und Tscherikower (*Tarbiz* I 31ff.) bewiesen.

### *XIII. 13. Adar.*

*Der 13. des Monats ist der Nikanortag.*

Gefeiert wird Nikanors Niederlage bei Adasa (I Mak. 7.49; II Mak. 15.36–37). Im Text von Ms. Parma fehlen mehrere

<sup>9</sup> Über Entstehung und historischen Werth des Siegeskalenders, *Megillath Taanith*, Diss. Leipzig 1874, S. 29.

sagenhafte Züge, die in den Vulgatahandschriften enthalten sind: 1) Nikanors täglicher (!) Zug nach Alexandria; 2) Die Tötung seiner Verwandten. Die Vulgatahandschriften sind hier von den Paralleltexten im palästinensischen Talmud (Ta'an. 2.13, 66a und Meg. 1.6, 70c) abhängig. Dort steht, dass einer der Hasmonäer in Nikanors Heer eindrang, bis er zu seinem Streitwagen (קרוכין = καρρὸς ἵππων = carruca) gelangte. Dieses קרוכין verstand ein Bearbeiter des Scholions nicht mehr und emendierte es zu קרוביו = seine Verwandten, die er dann folgerichtig ebenfalls verstümmeln liess. Der Text von Ms. Parma dagegen stimmt völlig zu dem knappen Bericht des 1. Makkabäerbuches, im Gegensatz zu der Breite des zweiten.—Später wurde der 13. Adar bekanntlich als Fasttag zum Andenken an Esthers Fasten begangen; diese Sitte ist aber erst seit dem 8. Jahrhundert belegt (R. Achai aus Schabcha, *Še'eltot* p. 28b = 110).

## 2. Unter Jonathan

### XIV. 7. Ijjar.

*Am 7. Ijjar war die Einweihung der Mauer von Jerusalem. Nicht zu trauern.*

Das Scholion bezieht nach der italienischen Rezension den Tag auf Nehemias Mauerbau (ebenso Krauss, *REJ* LXXI 156); dieser war zwar am 25. Elul beendet (Neh. 6.15), aber das Einsetzen der Tore (ibid. 6.1; 3.15) soll noch volle acht Monate gedauert haben. Graetz macht dies nicht wahrscheinlicher, wenn er annimmt, man hätte mit der Einweihung der Mauer gewartet, bis die Stadt wieder stärker bevölkert war. Die richtige Erklärung gibt wohl die spanische Rezension: Teilweise Zerstörung der Mauer von Jerusalem durch „Heiden“ und Feier des Beginns (!) des Wiederaufbaus. Das wird sich auf die Zerstörung durch Antiochos V. Eupator (I Mak. 6.62) und den Wiederaufbau durch Jonathan (ibid. 10.11) beziehen. Ad. Schwarz (*MGWJ* LXI 410–411) nimmt an, dass an unserem Tage der Wiederaufbau der Stadtmauer von Jerusalem durch Simon gefeiert wurde, aber das 1. Makkabäerbuch erwähnt nur die Befestigung des Tempelberges durch diesen (13.52). Dagegen wäre es auch möglich, an die Wiederherstellung der von Antiochos VII. Sidetes zerstörten Mauer durch Johann Hyrkan (I Mak. 16.23) zu denken.

## 3. Unter Simon

XV. 14. Siwan.

*Am 14. Siwan war die Einnahme von Migdal Sur.*

Zum Text: Neben צור haben die Handschriften שר, שר, צר.—  
Der Satz: „Die Tochter Edoms, das zwischen den Dünen liegt. Es war Israel ein Pfahl im Fleische zur griechischen Zeit“ ist in die Handschriften der italienischen Rezension aus der Parallelstelle im babylonischen Talmud (Meg. 6a) eingedrungen.

Erklärung: Die Talmudstelle lautet: Es erklärte Rabbi Abbahu (lebte um 300 in Caesarea): „Ekron soll vernichtet werden“ (Zeph. 2.4), das ist Caesarea, die Tochter Edoms, das zwischen den Dünen liegt. Es war Israel ein Pfahl im Fleische zur Zeit der Griechen. Als aber das Königreich des Hasmonäerhauses die Oberhand gewann, eroberten sie es und nannten es: „Die Einnahme von Migdal Sur“ . . . Es erklärte Rabbi Isaak (Zeitgenosse Abbahus, lebte in Tiberias und Caesarea): . . . „Ekron soll vernichtet werden,“ das ist Caesarea, die Tochter Edoms, das die Metropolis von Königen (= Statthaltern, so häufig im Talmud) war. Einige erklären: Man erzog dort Könige; andere: Man setzte dort Könige ein.—Die Gleichsetzung von Akkaron und Caesarea wurde also entweder mit der gemeinsamen Lage im Dünengürtel oder mit der gleichen politischen Bedeutung begründet. Dass sie auf Lokaltradition beruhte, zeigt die verschiedene Auslegung des Wortes Metropolis. Danach scheint es, dass auch die Beziehung auf den Tag der Fastenrolle nicht erst, wie Graetz und Schwab (S. 229) wollen, von Rabbi Abbahu stammt. Nun ist aber Caesarea bekanntlich von Herodes an der Stelle des alten Stratonsturm begründet worden. Stratonsturm ist sicherlich identisch mit מודל שרן, Varianten מודל שר (Tosefta Šeb. 4.11 in der Wiener Handschrift) und מודל שור (palästinensischer Talmud Šeb. 6.1,36c), das im Grenzverzeichnis Palästinas genannt wird. Dieses ist nach Klein (*Das tannaitische Grenzverzeichnis Palästinas* S. 44f.) um 20a. entstanden, jedenfalls vor 10a., dem Jahr der Vollendung der Bauarbeiten in Caesarea. Dementsprechend übernimmt Klein die Erklärung des Scholions, dass Alexander Jannai am 14. Siwan den den Phönikiern gehörigen Turm erobert habe (*Galiläa von der Makkabäerzeit bis 67*, S. 5; Jos. A XIII 12, 2.4). Aber diese Eroberung war schwerlich

so bedeutungsvoll, dass man ihretwegen einen jährlichen Feiertag eingesetzt hätte. Krauss (*REJ* LXXI 162ff. und *MGWJ* LXXV 192f.) will *אחידה* durch „einschliessen“ wiedergeben. Dass es das bedeuten kann, ist sicher; ebenso sicher aber ist auch die Übersetzung des Scholiasten *כבש* möglich. Der Hinweis auf die Bedeutung von *אחידה* beim 25. Marcheschwan besagt nichts, denn des Wort kann in verschiedener Bedeutung gebraucht sein. Auch sachlich bedeutete die Gründung von Caesarea keine „Einschliessung“ des Stratonsturmes, sondern, wie Krauss selbst sagt, eine Paralisierung. Oppenheim (*MGWJ* IX 195 ff.) identifiziert die Eroberung von Migdal Sur mit der der Antonia in Jerusalem (Jos. B II 430), die ebenfalls Stratonsturm hiess. Graetz weist mit Recht darauf hin, dass nach Jos. A XIII 307 (und B I 77.80) „Stratonsturm“ nur einen dunklen Gang innerhalb der Antonia, nicht aber die ganze Burg bezeichnete.—Zeitlin übersetzt Migdal Sur mit „the tower of the fort“ und sieht in unserm Tage eine Erinnerung an den Abbruch der Hallen, die die Antonia mit dem Tempel verbanden (Jos. B II 15.6; vgl. 404). Aber er muss *στοαί* mit towers und *διέκοψαν* mit captured übersetzen, um dieses Ereignis mit der „Einnahme von Migdal Sur“ identifizieren zu können. So bleibt nur die von Graetz, Derenbourg, Schmilg (S. 12), Cassel (S. 99), Schwab (S. 222f.) und Dalman vertretene Gleichsetzung von Migdal Sur mit Bet Sur. Graetz verweist darauf, dass die syrische Uebersetzung des 1. Makkabäerbuches Bet Sur mit *בית שורא* wiedergibt, was zu der Lesart *מגדל שיר, מגדל שר* stimmt. Dem Volke erschien die Eroberung von Bet Sur durch Simon (I Mak. 11.65f.) so bedeutungsvoll, dass es sie in der Ehrenurkunde für ihn ausdrücklich erwähnte (ibid. 14.33; vgl. auch 10.14 und Ed. Meyer S. 210 und 261).

### XVI. 3. Tischri.

*Am 3. Tischri wurde die Erwähnung in Urkunden aufgehoben.*

Die Tradition setzt bekanntlich die Ermordung Gedaljas (Jer. 41) auf den 3. Tischri, der deswegen noch heute als Fasttag begangen wird. Weder bei Jeremia noch bei Sacharja<sup>10</sup> ist der Tag genannt, immer nur der Monat. Der erste Beleg für den 3. Tischri ist eine Stelle des babylonischen Talmuds (R. H. 18b–

<sup>10</sup> 7.5: צמתם וספור בחמישי ובשביעי וזה שבעים שנה.



19a). Vermutlich denkt Sacharja nicht an die Ermordung Gedaljas, sondern bezieht die 70 Jahre nur auf den Fasttag des 9. Ab, während er beim 7. Monat an das Versöhnungsfest denkt. Umgekehrt sieht Morgenstern (*HUCA* I 53, Anm. 63) in der freudigen Begehung des 3. Tischri das bewusste Bestreben, die Feier einer alten nichtjahwistischen Zeremonie durch eine neue, entgegengesetzte, von künstlichem, jahwistischem Charakter zu verdrängen.

Welches Ereignis wurde nun am 3. Tischri gefeiert? Die „Erwähnung“ in Urkunden kann sich nur auf die Datierung beziehen. Ist hierbei nun die Gottes oder die eines fremden Herrschers gemeint? Die erste Auffassung wird von dem Scholiasten, Geiger, Graetz, Brann (*MGWJ* XXV 455), Baneth, Dalman, Morgenstern, Bornstein und Marmorstein vertreten, die zweite von Schmilg, Schwab und Zeitlin. Nach Graetz und Marmorstein (*The Old Rabbinic Doctrine of God*, p. 33f.) bedeutet אֲדַכְרָתָא speziell die Erwähnung des Tetragrammatons, wofür sich jedoch kein Beweis erbringen lässt. Das. 1. Makkabäerbuch nennt für die Datierung folgende Formel: „Im ersten Jahre Simons, des Hohepriesters, Feldherrn und Führers der Juden.“<sup>11</sup> Nach Graetz wäre hinter μεγάλου ein θεοῦ ὑψίστου von einem pharisäischen Bearbeiter gestrichen worden, bei dem ganzen Charakter des ersten Makkabäerbuche, im Unterschiede zum zweiten, eine unwahrscheinliche Annahme. Auf Münzen Johann Hyrkans lautet die Inschrift:<sup>12</sup> יהוחנן הכהן הגדל ראש חבר היהודים; יהוחנן הכהן הגדל וחבר היהודים; יהוחנן הכהן הגדל החבר היהודים. Wir haben also keinen Beleg für die Nennung Gottes, man müsste denn gerade mit dem Scholiasten, Baneth<sup>13</sup> und Bornstein (*Ha-Tekufa* VIII 289) annehmen, die Formel hätte ursprünglich gelautet: ליוחנן כהן גדל דהוא כהן (הוא כהן; שהוא לאל עליון (Varr. משמש—nach Graetz vielleicht sogar zuerst כהן גדל ליהוה—, auf Betreiben der Pharisäer wäre dann aber die Nennung

<sup>11</sup> 13.42: ἔτους πρώτου ἐπὶ Σίμωνος ἀρχιερέως μεγάλου καὶ στρατηγοῦ καὶ ἡγουμένου Ἰουδαίων.

<sup>12</sup> Schürer I 269. George Francis Hill, *Catalogue of the Greek Coins of Palestine (A Catalogue of the Greek Coins in the British Museum* 27, London 1914) S. 188ff.

<sup>13</sup> *Ursprung der Sadokäer und Boëthosaër* S. 53ff.

Gottes abgeschafft worden. Das Scholion wäre die einzige Erinnerung hieran. In diesem Falle läge es nahe, mit Geiger (*Urschrift* S. 34, Anm.) das Auftreten der Pharisäer durch ihre Opposition gegen Johann Hyrkan zu erklären und es folglich in dessen letzte Regierungsjahre zu setzen, während Graetz an Salome Alexandras Zeit denkt.—Dalman nimmt an, die ursprüngliche Erwähnung Gottes sei in einer Zeit der Fremdherrschaft abgeschafft worden, um Gott nicht neben dem fremden Herrscher nennen zu müssen.—Marmorstein (*PEF* 1928, 50) vertauscht, wie mir scheint, die Rollen, wenn er den Saddukäern die grössere Zurückhaltung im Gebrauch des Gottesnamens zuschreibt. Auf Münzen Alexander Jannais wechseln nämlich die Formen יתן und יהונתן, und Marmorstein erblickt in יתן die jüngere, saddukäische Form, die auch in Urkunden angewandt worden sei; später sei dann von den Pharisäern wieder die volle Form eingeführt worden. Aber Alexander nennt sich sowohl auf Hohepriestermünzen יתן (Hill Nr. 30–38; bei Nr. 11–29 ist die Zuweisung an Alexander Jannai zweifelhaft, vgl. Schürer I 285, Anm. 30) und יהונתן (Hill Nr. 39–60), wie auf Königsmünzen (יתן Lambert *PEF* 1927, S. 184ff., Nr. 9–12; יהונתן Hill Nr. 9–10. 1–8. 61–86; Lambert Nr. 13–295). Da er sicherlich nicht beide Titel gleichzeitig verwandt hat, lässt sich ein Zusammenhang zwischen der Namensform und seiner innerpolitischen Stellungnahme nicht aufrecht erhalten. Wie zudem אית נטילת מן שטרייא אדרכתא(?) bedeuten soll: the omitting of the Divine Name in the ruler's name from the documents was abolished, verstehe ich nicht.

Wahrscheinlicher ist, dass es sich um die Erwähnung eines Fremdherrschers handelt. Zeitlin denkt an die römischen Kaiser. Nach ihm ist der 3. Tischri gleich dem 6. Gorpaios, an dem Agrippas Palast eingeäschert wurde (Jos. B II 17, 8); damals habe man aufgehört, nach römischen Kaisern zu datieren. Hiermit bringt er Jos. B II 433 in Verbindung: Juda der Galiläer, der Vater des Zelotenführers Menachem, macht es den Juden zum Vorwurf, dass sie neben Gott noch den Römern untertan sind, und Zeitlin korrigiert danach die Mischna Jada. 4.8: „Es sprach ein Galiläer: Ich mache es euch zum Vorwurf, ihr Pharisäer, dass ihr den Herrscher zusammen mit Gott in Urkunden schreibt.

Es erwiderten die Pharisäer: Wir machen es dir zum Vorwurf, Galiläer, dass ihr den Herrscher zusammen mit Gott auf einer Seite schreibt; ja, ihr schreibt sogar den Herrscher oben und Gott unten, denn es heisst (Ex. 5.2): Und es sprach Pharao: Wer ist Gott, dass ich ihm gehorche . . .?'<sup>14</sup> Gegen Zeitlin spricht neben Josephus' Schweigen die Ueberlegung, dass man wohl eher mitten im Kampfe die Eroberung von Agrippas Palast gefeiert hätte, sicherlich aber nicht gerade an einem Kampftage Vorschriften über die Datierung in Urkunden erlassen haben wird. Für die Abschaffung der Datierung nach Kaiserjahren fehlt also jeder Beleg.—Nach dem 1. Makkabäerbuche „begann das Volk Israel, in den Verträgen und Vereinbarungen zu schreiben: Im ersten Jahre Simons . . .“ (s.o.).<sup>15</sup> Trotzdem datiert es selbst durchweg nach seleukidischer Aera. Wenn ferner die Mischna (Giṭ. 8.5; vgl. 80a) nach seleukidischer Aera datierte Scheidungsurkunden für ungültig erklärt, so beweist dies gerade das Fortleben dieser Datierung. Die angeführte Stelle des 1. Makkabäerbuches wird also nur bedeuten, dass die Datierung nach seleukidischer Aera durch die nach Hohepriesterjahren ergänzt wurde. Einen Beweis hierfür bietet der Beginn der Ehrenurkunde für Simon selbst: „Am 18. Elul des 172. Jahres, das ist das 3. Jahr Simons, des Hohepriesters.“<sup>16</sup> Es wird also nur die „Erwähnung“ des jeweiligen griechischen Herrschers abgeschafft worden sein (so Schwab S. 228; anders Schmilg S. 48). Simon wird bei seiner Datierungsformel ein hellenistisches Vorbild vorgeschwebt haben, wie auch die Ehrenurkunde für ihn stilistisch völlig hellenistischen Ehrendekreten gleicht (Ed. Meyer S. 265, Anm. 1).—Dass die pharisäische Tradition die hasmonäische Aera ignoriert, erklärt sich aus der inneren Politik der späteren Zeit.

<sup>14</sup> Sie führen ihn also ad absurdum: אמר (צדוקי) גלילי קובל אני עליכם פרושים: אומרים פרושים קובלין אנו עליך (צדוקי) גלילי שאתם כותבין את המושל עם השם (משה) בנט. אומרים פרושים קובלין אנו עליך (צדוקי) גלילי שאתם כותבין את המושל עם השם בדר. ולא עוד אלא שאתם כותבין את המושל מלמעלן ואת השם מלמטן שנאמר ויאמר פרעה מי ה' אשר אשמע בקולו וכו'.

<sup>15</sup> 13.42: καὶ ἤρξατο ὁ λαὸς Ἰσραὴλ γράφειν ἐν ταῖς συγγραφαῖς καὶ συναλλάγμασιν κτλ.

<sup>16</sup> 13.27: ὀκτωκαιδεκάτῃ Ἑλούλ, ἔτους δευτέρου ἑβδομηκοσιτοῦ καὶ ἑκατοστοῦ, καὶ τοῦτο τρίτον ἔτος ἐπὶ Σίμωνος τοῦ ἀρχιερέως, ἐν Σαραμὲλ κτλ.

XVII. 27. *Ijjar*.

*Am 27. des Monats wurden die Kränze von Jerusalem aufgehoben. Nicht zu trauern.*

Zum Text: Der Tag fehlt in der spanischen Rezension, dafür hat diese den Abzug der בני סקרא (vgl. zum 23. *Ijjar*).

Erklärung: כלילאי ist das aramäische Aequivalent für στεψανοι (I Mak. 10.29; 11.35; 13.39). I Mak. 10.29 stammt aus dem Privileg Demetrios' I., das die Juden nicht annahmen, weil sie sich auf die Seite Alexander Balas' schlugen. I Mak. 11.35 gehört zu dem Schreiben Demetrios' II. an seinen Vater, das er Jonathan mitteilte. I Mak. 13.39 schliesslich ist dem Friedensvorschlag desselben Königs an Simon entnommen, zu dem das 1. Makkabäerbuch bemerkt (13.41f.): „Im 170. Jahre wurde das Joch der Heiden von Israel genommen.“ Seitdem datierte man in Urkunden nach Regierungsjahren Simons. Bei der besonderen Hervorhebung gerade dieses Friedensschlusses scheint es mir am wahrscheinlichsten, dass unsere Stelle sich auf ihn bezieht (ebenso Graetz, Derenbourg, Schmilg S. 12, Schwab S. 224, Zeitlin und Klausner II 55).—Das Scholion und ihm folgend Cassel (S. 90–94) und Ratner (*Sokolow-Festschrift* S. 502f.) denken an die im griechischen Kultus üblichen Kränze und beziehen demgemäss den Tag auf die Beseitigung der heidnischen Kulte (vgl. II Mak. 6.7). Wie die Feier des 23. Marcheschwan des 3. und des 25. Kislew zeigt, sind die Hasmonäer aber erst im Spätherbst in Jerusalem eingedrungen. Es ist deshalb nicht anzunehmen, dass die griechischen Kulte im Frühjahr eingestellt wurden. Auch der Wortlaut passt schlecht zu dieser Auslegung.—Dass man Tempel, Häuser und Opfertiere bekränzte, ist zutreffend; Rosenkränze speziell sind im Aphroditenkult belegt (vgl. *RE* XI 1593. 1600–1602). Dagegen ist das Beschreiben von Stierhörnern oder Eselsstirnen sicherlich eine späte Sage, die zuerst von R. Simon ben Lakisch im 3. nachchristlichen Jahrhundert überliefert wird (Genesis rabba II 4).

XVIII. 23. *Ijjar*.

*Am 23. des Monats zog die Besatzung der Akra aus Jerusalem ab.*

Auch das 1. Makkabäerbuch (13. 51f.) berichtet, dass Simon den 23. *Ijjar*, den Tag der Räumung, als jährlichen Feier-

tag eingesetzt hat. Ebenso findet sich hier die Identifizierung der Akra mit der Davidsstadt wieder (1. 33). Das בני חקרא entspricht genau den οἱ υἱοὶ τῆς ἄκρας I Mak. 4.2 (vgl. Schwab S. 222). Etwas ganz anderes ist es, wenn das Targum zu 2 Sam. 5.7 ציון מצודה durch ציון חקרא wiedergibt; dies zeigt nur, dass חקרא der dem Übersetzer geläufige Ausdruck für „Festung“ war.— Ms. Michael, Ms. Cambridge und die editio princeps setzen weiter hinzu: „das ist jetzt der Platz der Karäer,“ was frühestens aus dem 8. Jahrhundert stammen kann; Ms. Wien: „גלילין,“ was Müller (*MGWJ* XXIV 44f.) als Galiläer = Christen und Harkavy (*REJ* V 210) mit Hinweis auf Šabbat 116ab און גליון = εὐαγγέλιον als Christen auffassen. Aber der Hinweis auf die Transkription von εὐαγγέλιον beweist nichts, und Galiläer heisst גלילי. Brann (*MGWJ* XXV 451) verweist auf das talmudische בית גליל Heidentempel. Im 8. Jahrhundert könnte dann ein Abschreiber die Götzendiener durch die Karäer ersetzt haben (Branns weitere Folgerungen scheinen mir unhaltbar). *Šeda la-Derek* liest: Am 23. des Monats zogen die בני סקרא aus Jerusalem ab, die sie geplagt hatten. Sollte hierin eine Erinnerung an die Sikarier erhalten sein?

#### 4. Unter Johann Hyrkan

##### *XIX. 28. Schebat.*

*Am 28. des Monats wurde König Antiochos zum Abzug aus Jerusalem veranlasst.*

Zum Text: Der Satz über die Bedrängnis der Jerusalemer ist irrtümlich aus dem Scholion zum 23. Ijjar (Räumung der Akra) übernommen.

Erklärung: Es ist unsicher, welcher Antiochos gemeint ist. Der Scholiast, Graetz und Schwab (S. 218) denken an Antiochos IV. Epiphanes. Dann müsste אנתוסיל aber „starb“ bedeuten, wofür ich keinen Beleg finde, und מן ירושלם wäre aus sämtlichen Handschriften zu tilgen. Auf Antiochos V. Eupator bezieht sich schon der 28. Adar, und bei der Eile, die Lysias haben musste, gegen Philippos zu ziehen, ist nicht anzunehmen, dass Abzug und Friedensschluss einen vollen Monat auseinanderlagen. Auch die beiden Makkabäerbücher wissen nichts davon (gegen Herzfeld, Schmilg S. 48ff., Brann *MGWJ* XXV 457, Cassel S. 80 und



Ratner, *Sokolow-Festschrift* S. 506). So bleibt nur die Aufhebung der Belagerung durch Antiochos VII. Sidetes, wenngleich er ebenso wie Antiochos Eupator die Befestigungen schleifen liess (Jos. A XIII 8, 3. Diodor XXIV 1. Porphyrius bei Eusebius, Chron. S. 120, vgl. Ed. Meyer S. 269 und Schlatter Anm. 117).

*XX. 21. Kislew.*

*Der 21. des Monats ist der Tag des Garizimberges. Nicht zu trauern.*

Gefeiert wird die Zerstörung des samaritanischen Tempels durch Johann Hyrkan (Jos. B I 63; A XIII 256). Das Scholion gibt dazu eine Alexanderlegende, die sich auch bei Josephus (A. XI 326ff.) findet. Im Gegensatz zu Josephus setzt der Scholiast nicht voraus, dass Alexander Jerusalem betreten hat (vgl. zum 25. Siwan), und deshalb braucht man nicht mit Zeitlin<sup>17</sup> anzunehmen, dass ursprünglich Antiochos der Grosse an Alexanders Stelle der Held der Erzählung gewesen sei. In der Niederlage der Samaritaner steckt vielleicht eine Erinnerung daran, dass Darius sie zwang, mehrere jüdische Dörfer wieder aufzugeben und 50 Talente zum Bau des Tempels in Jerusalem beizusteuern.<sup>18</sup>—Israel Lévi (*Gedenkbuch David Kaufmann* S. 346 ff.) sieht in dem Scholion ein Echo der jüdisch-samaritanischen Streitigkeiten in Alexandria und nimmt deshalb an, dass es dort entstanden ist.

*XXI. 15. und 16. Siwan.*

*Am 15. und 16. des Monats wurden die Bewohner von Bet-Schean und der Ebene vertrieben.*

Zum Text: Die Zusätze entstammen bis auf einen dem Scholion zum 14. Siwan oder bieten nur eine Reihe von Bibelzitaten.

Erklärung: Die Worte der Erweiterung des Scholions: „gegen die Araber“ sind mir unverständlich; sie fehlen in Ms. Parma und Ms. Michael. Der Tag gedenkt der Eroberung von Skythopolis und der Ebene Jesreel durch die Söhne Johann Hyrkans nach einem Siege über Antiochos Kyzikenos.<sup>19</sup> Derenbourg (S. 74) verweist mit Recht auf Jos. A XIII 282 = Cant. r. VIII 11;

<sup>17</sup> Nach G. Foot Moore, *Jewish Studies in Memory of Israel Abrahams*, New York 1927, S. 357.

<sup>18</sup> Jos. A XI 61; fehlt in seiner Quelle: I Esra 4.50.

<sup>19</sup> Jos. A XIII 277. 280; B I 66.

Soṭa 33a; j. Sota 9.13, 24b: Johann Hyrkan vernahm im Allerheiligsten des Tempels zu Jerusalem eine Stimme, dass seine Söhne Antiochos (so ist mit Derenbourg für אנטכיא zu lesen) besiegt hätten; man schrieb Tag und Stunde auf, und es stellte sich die Richtigkeit heraus.

*XXII. 25. Marcheschwan.*

*Am 25. des Monats war die Einnahme der Mauer von Samaria.*

Zum Text: Die Lesart שמרון רבה findet sich nur im Scholion in Ms. Parma; im aramäischen Text steht dafür in sämtlichen Handschriften שורא שמרון. Im Scholion haben die Vulgatahandschriften einfach שמרון; in Ms. Michael fehlt der Passus. Derenbourg (*Essai* S. 72, Anm.) nimmt an, dass שורא ursprünglich Randvariante zu אחרית מגדל צור (14. Siwan) war und versehentlich an unserer Stelle in den Text gelangt ist. Aber das רבה in Ms. Parma zeigt, dass auf שמרון noch ein Wort folgte, und das Scholion setzt שורא geradezu voraus.

Erklärung: Der Tag bezieht sich zweifellos auf die Einnahme Samarias durch die Söhne Johann Hyrkans (Jos. B I 2.7; A XIII 10.2–3). Krauss (*REJ* LXXI 162, Anm. 5 und *MGWJ* LXXV 198f.) liest wie der Scholiast שמרון שורא und übersetzt wie er: Samaria wurde durch eine Mauer (שורא acc. adverbialis) eingeschlossen. Dass der Scholiast beim 14. Siwan אחרית durch כבש, hier dagegen durch הקיפו wiedergab, ist kein Gegenargument; es zeigt nur, dass er beide Bedeutungen des Wortes kannte—übrigens für einen aramäisch sprechenden Juden der talmudischen Zeit eine Selbstverständlichkeit.—Nach Derenbourg ist an einen Vortrupp der Exulanten gedacht, der sich inmitten der Samaritaner niederlassen wollte, aber gezwungen wurde, sich in Narbatene anzusiedeln.

Rätselhaft ist die zum Schluss genannte Bezeichnung Samarias als עיר נברכתא. Graetz erinnert an Josephus' Bericht, dass Johann Hyrkan die Stadt durch Wassergräben überschwemmen liess, und übersetzt עיר נברכתא Wasserkanalstadt. Dem stimmt Schwab S. 227 zu. Neubauer (*Géographie* S. 171, Anm. 10) übersetzt עיר נברכתא: villes bénies, so sei es ironisch von den Juden genannt worden. Krauss übersetzt das Wort mit „Walkgrube“ und sieht darin ebenfalls einen Ausdruck volkstümlichen

Spottes. Herzfeld (zitiert von Derenbourg) und Klein (*MGWJ* LXXIV 371) schliesslich identifizieren mit Recht die ערי נברכתא mit der Toparchie von Narbatene Jos. B II 291.509), die zwischen Caesarea und Sebaste lag. I Makk. 5.23 haben Codex Alexandrinus und ein Korrektor des Sinaiticus (N<sup>o</sup>.a) ἐν Ἀρβάκτοις, was Herzfeld als ursprünglich bezeichnet.

#### D. ANTISADDUKAEISCHE GEDENKTAGE

XXIII. 1.–8. (7.) Nissan.

Vom 1. bis 8. Nissan wurde das tägliche Opfer eingerichtet. Nicht zu trauern.

Zum Text: Das Scholion fehlt in Ms. Parma, wohl nach dem Vorbild von Men. 65a = Ta'an. 17b. Es findet sich an anderer Stelle in Men. 65a, doch fehlt hier die Auslegung von Nu. 38.2, die dem Sifre entnommen ist, und die Vorschrift über die Prüfung des Opfertieres, die aus Men. 49a = 'Arak. 13b = Pes. 96a stammt, nur dass hier Ben Bag Bag für Rabbi Akiba genannt ist; anonym findet sie sich noch in der Mekilta (Bo M. de-Pasha 5). Beide Zusätze unterbrechen den Zusammenhang und fehlen zudem in Ms. Michael. Dem Scholion eigen ist der letzte Satz über die Anlage eines Opferfonds im Tempel.—Die Boethusäer werden genannt in Ms. Michael, Tosafot und (einmal) Pseudo-Raschi Ta'an. 17b sowie in Men. 65a; die Vulgatahandschriften, Men. 65a und zweimal auch Pseudo-Raschi Ta'an. 17b haben dafür die Saddukäer.

Erklärung: Wie im Scholion, so heissen die Pharisäer in der rabbinischen Literatur regelmässig die „Gelehrten“; vgl. Lauterbach, *Studies in Jewish Literature Issued in Honor of Professor Kaufmann Kohler* S. 196, Anm. Das Scholion zur Fastenrolle (7. Kislew, 28. Tebet, 2. Schebat) bezeichnet sie sonst noch einfach als „Israel.“ Aptowitzer, *Parteipolitik* XXVII nimmt an, dass die Pharisäer sich ursprünglich selbst so genannt haben.—Nach dem Scholiasten haben Boethusäer und Pharisäer darüber gestritten, ob das tägliche Opfer von Privatpersonen oder der Gesamtheit darzubringen sei. Nach dem Siege der Pharisäer hätten diese dann die Tage des Streites zu Feiertagen erklärt. Graetz und Schwab (S. 235f.) akzeptieren diese Erklärung, nur sehen sie in der Ausdehnung des Festes auf acht Tage eine blosse

Hervorhebung der Wichtigkeit des Sieges. Dies ist noch immer die wahrscheinlichste Erklärung. Das Scholion hat gegenüber der Parallelstelle im babylonischen Talmud den Zusatz, dass nach dem Siege der Pharisäer aus den Schekelgeldern ein Fonds für die täglichen Opfer im Tempel deponiert wurde. Graetz nimmt an, dass damals erst die Einsammlung der Tempelsteuer in der Art geregelt wurde, wie Mischna (Šek. 3.1, 3) und palästinensischer Talmud (ibid. 1.1, 45d) sie kennen, und setzt den Sieg der Pharisäer und die Anlegung des Tempelfonds in die Regierungszeit Salome Alexandras. Ad. Schwarz (*MGWJ* LXIII 233) hält es für selbstverständlich, dass die Opfer *für* die Gesamtheit auch *von* der Gesamtheit darzubringen waren. Deshalb setzt er den Ursprung des Feiertages in die Zeit unmittelbar nach den Hasmonäerkämpfen. Er nimmt an, dass die Gelder für das tägliche Opfer Ende Adar noch nicht eingegangen waren und dass die Saddukäer einspringen wollten. Dem hätten sich die Pharisäer widersetzt mit Rücksicht auf die Halacha, dass für die täglichen Opfer vom 1. Nisan an die Schekelsteuer des neuen Jahres verwendet werden musste. Sie hätten die Absicht der Saddukäer vereitelt, und als zu Beginn der zweiten Nisanwoche die Steuergelder in Jerusalem eintrafen, hätten sie die ersten acht Tage zu Feiertagen erklärt, weil sie an ihnen in der Praxis einen Sieg über die Saddukäer errungen hatten. Seiner Erklärung widerspricht der Umstand, dass wir vor der Zeit Johann Hyrkans nie etwas von Saddukäern und erst recht nichts von Boethusäern hören. Der scharfe Gegensatz zwischen ihnen und den Pharisäern jedenfalls hat sich erst damals herausgebildet. Dann sind aber Feiertage, die Siege in dem Streite beider Richtungen feiern, vor dieser Zeit unmöglich.—Auch ist es in der Antike keineswegs selbstverständlich, dass sämtliche Staatsopfer von staatlichen Priestern dargebracht werden mussten. In Rom z. B. „versahen einzelne Geschlechter noch den Dienst von gewissen ihnen von der Gemeinde übertragenen Staatsgöttern. Derartige Uebertragungen, durch die der staatliche Charakter der Fürsorge der einzelnen Gentes zugewiesenen Götter sich nicht änderte, waren besonders häufig, ja vielleicht die Regel gewesen in der ältesten Zeit.“ *An diesen Opfern war das Volk nicht beteiligt.* Allerdings wurden sie, wenigstens nach Festus, *publico sumptu* dargebracht

(*RE* s.v. *Sacra*, II 2, 1656ff., unter Berufung auf Mommsen, *Römisches Staatsrecht* II 63; III 18f. und Wissowa, *Religion und Kultus der Römer* 2404, 2). In Judäa waren die Aaroniden durch die Bibel endgültig zu Priestern bestimmt. Da mochte es für die Priestergeschlechter nahe liegen, die Herrscherstellung, die sie seit Esra einnahmen, auch äusserlich dadurch zu betonen, dass sie die Gemeindeopfer wie Privatopfer auf eigene Kosten darbrachten, und hiergegen wandte sich die demokratische Opposition der Pharisäer. Dann ist wohl mit Graetz die Einsetzung des Feiertages in die Zeit Salome Alexandras zu setzen. Einen anderen Beleg für diesen Streit zwischen Saddukäern und Pharisäern findet Aptowitz (*Parteipolitik der Hasmonäerzeit* S. 171f.) in Hag. 6b. Sifre Nu. 67. Sifre zuța S. 258.—Anders erklären den Feiertag Wellhausen (S. 59), Dalman, Leszynsky, Zeitlin und Morgenstern. Wellhausen denkt unter Berufung auf Lev. 9.1 an die Einweihung des Opferaltars. Dalman liest mit dem palästinensischen Talmud: „Am ersten Nissan wurde das tägliche Opfer eingerichtet“ und führt es auf die Einrichtung des täglichen Opfers durch Mose zurück (nach Ex. 40.17, 29). Leszynsky (S. 67, Anm. 1) denkt an die Errichtung des Stiftszeltes (Ex. 40.2ff.; Sifre Nu. 68; Pes. 90b. mscr.). Von einem solchen Feiertage ist aber in der Bibel keine Rede, und eine Einsetzung in nachexilischer Zeit, die zudem nirgends berichtet wird, wäre völlig unbegründet. Zeitlin findet in unserem Tage eine Erinnerung an die Einweihung des zweiten Tempels. Diese erfolgte nach der korrigierten Lesart von Esra 6.15 am 23. Adar, die folgende Woche waren Weihetage (nach Ex. 29.37), auf die dann am 1. Nissan die eigentliche Weihe und die erstmalige Darbringung des täglichen Opfers folgte. Auffällig ist aber, dass Esra selbst über die Einrichtung eines solchen Feiertages nichts berichtet. Unerklärt bleibt auch die Ausdehnung des Festes auf eine ganze Woche. Morgenstern (*HUCA* I 51–54) schliesslich nimmt an, dass unmittelbar vor 586 in Juda die ersten 8 Nissantage wie in Babylon und bei den Sabäern in Haran als Neujahrstage gefeiert wurden, dass der Grund für die Heiligkeit dieser Tage in Vergessenheit geriet oder dass der Scholiast, um den nichtisraelitischen Ursprung dieses Festes vergessen zu lassen, eine andere Begründung suchte.



XXIV. 17. *Adar.*

*Am 17. des Monats erhoben sich die Heiden gegen den Rest der Gelehrten im Lande Chalkis in Bet Zabdai, aber sie wurden errettet.*

Das Scholion bezieht den Tag auf die Verfolgung der Pharisäer durch Alexander Jannai (Jos. B I 98; A XIII 383). Die Einzelheiten über das Schicksal der Flüchtlinge in Syrien scheinen durchaus historisch zu sein (so auch Graetz, Cassel S. 105 und Ginzberg). Ginzberg<sup>20</sup> sieht in den Emigranten die Begründer der Gemeinde des neuen Bundes im Lande Damaskus, deren Schrift von Schechter in der Genisa zu Kairo wiedergefunden wurde.<sup>21</sup> Schwierigkeiten bereiten die Ortsnamen. Mit Chalkis ist sicherlich die Landschaft am Libanon gemeint. קוסליקוס emendiert Graetz zu סליקוס = Σελεύκεια am Meromsee (Jos. B IV 1). Bet Zabdai ist sonst nicht bekannt, nur ein זבדי in Galiläa (Gen r. 98; vgl. Neubauer, *Géographie* 295). Derenbourg (S. 99, Anm. 1) und ihm folgend Wellhausen (S. 58) denken an Jonathans Sieg über die Zabäer zwischen Leontes, wie Derenbourg für Eleutheros lesen will, und Damaskus (I Mak. 12.30–32). Die „Rettung“ soll sich nach Derenbourg darauf beziehen, dass Demetrios' Heer Jonathan entkam (ibid. 28–29). Misslich an dieser Erklärung ist neben der völligen Ignorierung des Scholions, dass die Worte „der Rest der Gelehrten“ (nicht „der Juden“) unerklärt bleiben.—Zeitlin versteht unter ספריא Sepphoris, das aber sonst nur צפורי oder צפורין heisst. Zudem liegt es nicht in Chalkis und gehörte auch nicht zu dem Teil Galiläas (Tiberias und Tarichaia), den Nero Agrippa II. schenkte (Jos. A XX 159). Ausschlaggebend gegen Zeitlins Deutung spricht jedoch, dass nach Josephus (B II 20.2, III 4.1) gerade in Sepphoris selbst Ruhe herrschte und nur die Umgegend geplündert wurde; „refugees of Sepphoris“ hat es also überhaupt nicht gegeben.

XXV. 7. *Kislew.*

*Der 7. des Monats ist ein Feiertag.*

Ausser an unserem Tage fehlt noch am 2. Schebat die Angabe des Grundes. Nach dem Scholion starb am 7. Kislew Herodes,

<sup>20</sup> Eine unbekannte jüdische Sekte I 376f.

<sup>21</sup> *Fragments of a Zadokite Work (Documents of Jewish Sectaries I)*. Cambridge 1910.

am 2. Schebat Alexander Jannai. Nun fällt Herodes' Todestag aber in den Nissan oder die letzten Tage des Adar.<sup>22</sup> Graetz vertauscht die Scholien und setzt Alexander Jannais Todestag auf den 7. Kislew.<sup>23</sup> Alexander Jannais Name ist wohl mit Rücksicht auf Sälome Alexandra nicht genannt (so Schmilg S. 20). Das ist noch immer die wahrscheinlichste Erklärung. Natürlich kann dann Josephus' Erzählung (A XIII 16,1) nicht zutreffen, dass die Phariseer Alexander Jannai eine grossartige Leichenfeier veranstaltet haben. Jawitz<sup>24</sup> versucht Unmögliches, wenn er beides harmonisieren will: der Todestag sei erst viel später zu einem Feiertage gemacht worden. Aus welchem Anlass sollte das denn geschehen sein? Cassel (S. 79) nimmt an, es sei der Todestag des Antiochos Eupator. Sein Name sei mit Rücksicht auf die römische Regierung nicht genannt. Aber die Römer selbst kommen in der Fastenrolle vor (17. Elul). Zeitlin meint, wenn keine nähere Erklärung gegeben werde, müsse es sich um Ereignisse handeln, die unmittelbar vor Ausbruch des Krieges gegen Rom fielen und deshalb noch frisch im Gedächtnis haften. Er setzt den 7. Kislew gleich dem 8. Dios, auf den Cestius' Niederlage fiel (Jos. B II 555). Dies ist aber unmöglich, wie folgende Ueberlegung zeigt:

Als Cestius nach Lydda kam, war der Ort wegen des Laubhüttenfestes (15. – 22. Tischri) von der Bevölkerung verlassen (Jos. B II 515).

Dieses kann noch nicht, wie Zeitlin annimmt, vorüber gewesen sein, denn: Am Sonnabend des Laubhüttenfestes (dieses Datum übersieht Zeitlin) erreichte Cestius Gibeon, 2½ Stunden von Jerusalem entfernt (§ 516–517).

Dort blieb er noch 3 Tage (§ 522). Dann rückte er gegen Jerusalem (§ 527).

Er lagerte 3 Tage auf dem Oelberge, ehe er am 30. Hyperberetaios sein Heer gegen die Stadt führte (§ 528).

6 Tage lang (30. Hyperberetaios bis 4. Dios) bestürmte er die Stadt (§ 535).

■ Schürer I 415, Anm. 167.

<sup>23</sup> Ebenso Schwab S. 233; vgl. auch Aptowitzer, *Livre d'hommage Poznański* S. 162, Anm. 67; *Parteipolitik* S. 215.

<sup>24</sup> תולדות ישראל IV 198, Anm. 1.

Weitere 2 Tage (6.–7. Dios) blieb er dann im Lager von Gibeon und wurde am 3. Tage (8. Dios) geschlagen (§ 545).

Am Morgen des 4. Tages (9. Dios) entkam er (§ 551).

Diese genauen Zahlenangaben ergeben 15 Tage, vom Sonnabend des Laubhüttenfestes bis zu Cestius' Niederlage; d. h. diese fiel in den Anfang des Marcheschwan, einen Monat vor unserem Tage.

#### XXVI. 4. *Tammus*.

*Am 4. Tammus wurde das Buch der Verordnung abgeschafft.*

Zum Text: Die Lesarten bieten den 7., 10. und 14. Tammus.— In Ms. Parma findet sich nur der Anfang des Scholions (bis: „Sie wussten keinen Beweis dafür aus der Lehre zu bringen“) und der letzte Satz über die Einsetzung des Feiertages; das Uebrige in der italienischen Rezension.

Erklärung: Das Scholion und ihm folgend Krochmal,<sup>25</sup> Geiger,<sup>26</sup> Graetz, Schwab (S. 234f.), Weiss,<sup>27</sup> Dalman, Lauterbach,<sup>28</sup> Strack,<sup>29</sup> Ginzberg<sup>30</sup> und Finkelstein<sup>31</sup> fassen das „Buch der Verordnungen“ als einen saddukäischen Strafkodex auf. Lauterbach betont noch, dass in ihm natürlich nicht nur die Strafen für todeswürdige Verbrechen verzeichnet waren. Nach Derenbourg, Graetz und Finkelstein wäre er beim Regierungsantritt Salome Alexandras ausser Kraft gesetzt worden; Dalman und Strack denken daneben an den Ausbruch des Jüdischen Krieges. Es wäre neben der Fastenrolle die einzige, für öffentlichen Gebrauch bestimmte Sammlung von Halachot aus der Zeit vor Zerstörung des Tempels. Zeitlin folgt Cassel (S. 107), der den Tag auf die Privilegierung der Juden durch Alexander Balas und Demetrios I. bezieht, als alle Verordnungen der Syrer aufgehoben wurden (I Mak. 10). Aber in Demetrios' erstem Briefe ist nur von der Aufstellung eines Heeres und der Rückgabe der Geiseln die Rede (§§ 6–9), und die in dem zweiten Briefe

<sup>25</sup> *More Nebuke ha-Zeman* S. 205.

<sup>26</sup> *Urschrift* S. 216, Anm.

<sup>27</sup> דור דור ודורשין I 128.

<sup>28</sup> *Kohler-Festschrift* S. 186, Anm. 1.

<sup>29</sup> *Einleitung in Talmud und Midraš* S. 13.

<sup>30</sup> *Eine unbekannte jüdische Sekte* I 71.

<sup>31</sup> *Harvard Theological Review* XXII 222, Anm. 87.

(§§ 25–45) enthaltenen Privilegien wurden von den Juden zurückgewiesen. Alexander wieder ernannte zunächst Jonathan zum Hohepriester und Freund des Königs (§§ 18–20) und fügte später in Ptolemais noch die Ernennung zum Strategen und Meridarchen hinzu (§ 65). Hätte er wie Demetrios den Juden alle möglichen weiteren Rechte gewährt, so wäre dies sicherlich nicht verschwiegen worden. Wenn 11.28ff. ausdrücklich gesagt wird, dass Demetrios II. Judaea ἀφορολόγητος gemacht hat und dass Jonathan ihm 30 Talente dafür gegeben hat, so ist anzunehmen, dass Alexander nur die angegebenen Konzessionen gewährt hat. Der Wortlaut „Das Buch der Verordnung“ stimmt aber überhaupt nicht zu solchen einzelnen Abgaben bzw. Privilegien. Von der Einführung oder Aufhebung eines griechischen Gesetzbuches erfahren wir niemals, immer nur von einzelnen Erlassen; so wird die ältere Auslegung wohl das Richtige treffen. Nicht klar ist mir, an was für ein fremdes Gesetzbuch G. F. Moore (*Judaism* III 27.45 f.) denkt, wenn er die Beziehung auf die Seleukiden ausdrücklich ablehnt.—Ganz anders ist Leszynskys Erklärung (S. 79f.). Nach ihm fand der Scholiast eine Diskussion zwischen Pharisäern und Saddukäern vor, die er zur Erklärung des Textes benutzte. Nur verwechselte er hierbei die streitenden Parteien. Die Pharisäer waren im Besitze eines Strafkodex (des Mischna-traktats Sanhedrin), während die Saddukäer sich mit wörtlicher Anwendung der biblischen Vorschriften begnügten. Aber es ist durchaus möglich, dass sie diese in einem Strafkodex zusammengefasst hatten und bei der Rechtsprechung benutzten, während die Pharisäer, wie auch Leszynsky zugibt, ihre Entscheidungen nur nach der „mündlichen Lehre“ fällten. Dass es private Aufzeichnungen von dieser gab, erscheint mir sicher; entscheidend ist aber der offizielle Gebrauch vor Gericht.—Im übrigen wird der Anfang des Scholions durch die sicher zutreffenden weiteren Teile gesichert. Die Saddukäer (Boethusäer) fassten, natürlich nur in der Theorie, das Talionsprinzip wörtlich auf.<sup>32</sup> Die Pharisäer milder-ten es oder hoben es in vielen Punkten ganz auf.<sup>33</sup> Auch bei der

<sup>32</sup> Vgl. Wellhausen S. 62 und Ed. Meyer S. 29; dagegen Geiger S. 148, Rapoport וַאֲמַר שְׁלוֹם S. 15 und Revel, *JQR*, NS VII 431.

<sup>33</sup> Jos. A XIII 294. XX 199; vgl. Aptowitzer, *JQR*, NS XV 75ff.; *Partei-politik* S. 44; Geiger S. 119 (in Ketubot 105a sind die Saddukäer nicht genannt).

Beweisführung gegen eine Neuvermählte wegen Fehlens der Symptome der Jungfräulichkeit und bei der Weigerung, die Leviratsehe zu vollziehen, wird die wörtliche saddukäische Auslegung der deuteronomischen Vorschriften von den Pharisiern abgelehnt. Graetz und Wellhausen nahmen an, dass die wörtliche Interpretation auch von dem Tannaiten Elieser ben Jakob vertreten wurde (b. Ket. 46a; p. ibid. 4.4, 28c; Sifre Dt. 237; b. Jeb. 106b; Sifre Dt. 291); dass dies ein Irrtum war, hat Halevy, *Dorot Harischochim* I c, S. 415ff. nachgewiesen.

### XXVII. 28. Tebet.

*Am 28. Tebet sass die Versammlung zu Gericht.*

Zeitlin denkt an die Einsetzung der Revolutionsregierung durch die Zeloten (Jos. B II 20, 3–4). Aber es ist nichts davon gesagt, dass diese als כְּנֶשֶׁת oder Synhedrion bezeichnet wurde oder dass sie sich richterliche Befugnisse angemasst hat; vielmehr wird später (IV 147) ausdrücklich das Eindringen der Zeloten in das Synhedrion und die Einsetzung eines neuen Synhedrions berichtet (IV 5.4). Der Scholiast, Graetz, Derenbourg, Cassel, Schmilg, Weiss,<sup>34</sup> Bondi, Schwab, Friedländer und Aptowitzer verstehen unter der „Versammlung“ das Synhedrion, Büchler<sup>35</sup> das nach seiner Meinung von diesem unabhängige grosse Bet-din. Cassel (S. 108) denkt an die Wiederherstellung des Gesetzes durch Simon (I Mak. 14.14); Schmilg (S. 46) und Schwab (S. 233) an den Wiederbeginn der Tätigkeit des Synhedrions (γερονυσία) nach dem Siege der Hasmonäer. Das ist zwar möglich, doch berichtet das 1. Makkabäerbuch weder diesen Wiederbeginn noch eine derartige Feier. So wird wohl die traditionelle Erklärung zutreffen. Das Synhedrion wurde seit Johann Hyrkan von den Saddukäern beherrscht (Jos. A XIII 296). Ein Hinweis auf diesen „saddukäischen Gerichtshof“ (בית דין של צדוקין) findet sich im babylonischen Talmud (Sanh. 52b). Simon ben Schetach verschaffte dann den Pharisiern das Uebergewicht, wenn auch nicht auf so einfache Weise, wie das Scholion es darstellt. Graetz und Aptowitzer<sup>36</sup> setzen den Sieg der Phariseer in Alexander Jannais

<sup>34</sup> דור דור ודרשין I 128.

<sup>35</sup> *Das Synedrion in Jerusalem* S. 168, Anm. 149.

<sup>36</sup> *Poznański-Gedenkschrift* S. 162, Anm. 67; *Parteipolitik* S. 34ff.



erste, der Scholiast in seine letzten Regierungsjahre. Derenbourg (S. 102) und Ed. Meyer (S. 310) denken an die ersten Jahre Salome Alexandras; dazu stimmt eine talmudische Notiz: Alexander Jannai geriet in Konflikt mit den Pharisäern, „und es wurden sämtliche Gelehrten Israels (Pharisäer) erschlagen, und die Welt war verödet, bis Simon ben Schetach kam und die Lehre wieder zu Ehren brachte.“<sup>37</sup> Uebrigens hatte das Synhedrion später wieder saddukäische Mitglieder (Apostelgeschichte 4.1, 5.17), und manche Forscher (z.B. J.T., *ZfHB* IX 132ff.) setzen den erwähnten „saddukäischen Gerichtshof“ in die Zeit kurz vor dem Kriege gegen Rom.

### XXVIII. 27. Marcheschwan.

*Am 27. des Monats wurde das Feinmehl wieder auf dem Altar verbrannt.*

Der Scholiast, Graetz, Geiger (*Urschrift* S. 136), Derenbourg (*Essai* S. 135), Schwab (S. 238), Dalman und J. T. (*ZfHB* IX 134f.) beziehen den Tag auf einen Sieg der Pharisäer über die Saddukäer, Cassel (S. 111) und Zeitlin auf die Wiederherstellung des Opfers durch Juda (I Mak. 4.42). Nach der ersten Auffassung hätten die Pharisäer schliesslich ihre Ansicht durchgesetzt, dass das Mehlopfers mit dem Fleischopfer zu verbrennen, nicht aber von den Priestern zu verzehren sei. Zeitlin findet eine Anspielung auf die Wiederherstellung des Mehlopfers in II Mak. 1.8. Dass die Saddukäer die Interessen der Priester vertraten, stimmt zu allem, was wir über sie wissen. Es kann zweifelhaft erscheinen, ob die Pharisäer ihre Ansicht erst kurz vor Zerstörung des Tempels (so J. T.) oder schon zur Zeit Salome Alexandras (so das Scholion, Graetz, Geiger, Derenbourg und Schwab) durchgesetzt haben. Dass es im 1. nachchristlichen Jahrhundert noch oder wieder saddukäische Mitglieder des Synhedrions und Hohepriester gab, zeigen Apostelgeschichte (4.1, 5.17) und Tosefta (Para 3.8).

<sup>37</sup> Kidd. 66a: ויהרגו כל חכמי ישראל והיה העולם משחומם עד שבא שמעון בן שטח והחזיר את התורה ליושנה. Josephus (A XIII 10, 6) setzt den Bruch mit den Pharisäern in die Regierungszeit Johann Hyrkans; ihm folgend bezieht Friedländer (*JQR*, NS IV 444) auch die Talmudstelle auf diese Zeit (vgl. Ber. 29a; Bondi, *JJLG* VI 405; dagegen Aptowitzer, *Parteilpolitik* 14ff.; 318ff.).

## E. ZEIT DER LETZTEN HASMONAEER

## XXIX. 20. und 22. Adar.

*Am 20. des Monats fastete das Volk um Regen und wurde erhört. Am 22. erbarmte sich der Herr des Landes und erhörte (das Gebet), nachdem drei Jahre ohne Regen vergangen waren.*

Der 22. Adar findet sich nur in *Ṣeda la-Derek*. In unseren Manuskripten sind beide Ereignisse zusammengezogen. Die dreijährige Dürre ist in allen Handschriften (ausser Ms. Michael) erwähnt, fehlt dagegen in sämtlichen talmudischen Parallelen. Der kurze Text in Ms. Parma, nach dem Onias vor der Lade betet, stimmt mit Josephus (A XIV 22) überein; der Text in der italienischen Rezension dagegen beruht auf den talmudischen Parallelen. Nach dem Scholion lebte Onias zur Zeit Simon ben Schetachs, d. h. unter Alexander Jannai und Salome Alexandra, nach Josephus zur Zeit Aristobuls und Hyrkans II (vgl. auch pal. Talmud Ta'an. 3.10, 66d und bab. 23a). In welche Zeit die drei Jahre der Dürre fallen, deren Beendigung am 22. Adar gefeiert wurde, ist nicht zu bestimmen.

## F. GEDENKTAGE AUS RÖMISCHER ZEIT

## 1. Vor Ausbruch des Aufstandes

## XXX. 3. Kislew.

*Am 3. Kislew wurden die Bilder aus dem Tempelvorhof entfernt.*

Das Scholion bezieht den Tag auf die Entfernung von Standbildern (*σημεῖα*) durch die Hasmonäer. Schwab (S. 213) wollte sogar *סימות* für *סימאות* einsetzen unter Berufung auf die *σημαῖαι* bei Josephus (B II 9, 2–3; A XVIII 3, 1); diese bedeuten jedoch Feldzeichen und nicht Bildsäulen. Graetz fand eine Parallele im 1. Makkabäerbuche (4.43, *λίθοι τοῦ μισμοῦ*); ebenso Cassel S. 108 und Derenbourg *Essai* S. 61); nur verband er hiermit noch die Beratung über den Ganzopferaltar (vgl. zum 23. Marcheschwan). Doch sind mit diesen „Steinen“ schwerlich Standbilder (*σημεῖα*) gemeint; das hätten Verfasser und Übersetzer des 1. Makkabäerbuches bestimmt genauer ausgedrückt. Näher liegt daher eine andere Erklärung. Frankel (*MGWJ* III 444, Anm. 9) emendiert *דרתא* in *קריתא* und bezieht den Tag

auf die Zurückziehung der Kohorten mit den Kaiserbildern (σημαῖαι) durch Pilatus, ebenso Dalman, Zeitlin und Schlatter (Anm. 247). Diese Erklärung wird wohl zutreffen. Zu den Einzelheiten vgl. Schürer I 489.

### XXXI. 22. Schebat.

*Am 22. des Monats wurde der (Götzen)dienst zunichte, den der Feind in den Tempel zu bringen gedachte. Nicht zu trauern.*

Zum Text: Das Wunder, dass Simon eine himmlische Stimme aus dem Allerheiligsten vernimmt, fehlt in der spanischen Rezension. Wohl aber findet es sich in der talmudischen Literatur; aus ihr wird es ein späterer Bearbeiter in das Scholion eingefügt haben.—Das Ziel des ersten Boten ist aus Josephus (Ptolemais-Akko) zu ergänzen.

Erklärung: Cassel (S. 86) bezieht den Tag auf Alkimos' Versuch, eine Mauer im Tempel niederzureissen, und seinen Tod (I Mak. 9.54–56); aber seine Uebersetzung ist unmöglich: Es wurde verhindert das Werk, von dem der Feind sagte, *es müsse am Tempel geschehen*. Das Richtige hat schon das Scholion: Caligulas Plan, den Kaiserkult in Jerusalem einzuführen, wird infolge seiner Ermordung zunichte (Tacitus, *hist.* V 9). Der (syrische) Legat (שליח) ist P. Petronius. Das „Bild“ war eine Kolossalstatue des Zeus mit den Gesichtszügen des Kaisers.<sup>38</sup> Den Befehl, sie im Tempel zu Jerusalem aufzustellen, wird Petronius zur Zeit des Laubhüttenfestes 39 erhalten haben. Unter Simon dem Gerechten ist natürlich nicht der Zeitgenosse Alexanders des Grossen zu verstehen (vgl. das Scholion zum 21. Kislew), sondern ein anderer Simon. Jawitz<sup>39</sup> identifiziert ihn mit Simon dem Demütigen, der in der Tosefta (Kelim 1.1, 6) erwähnt wird und Josephus als Gegner Agrippas I. bekannt war (A XIX 7,4). Wahrscheinlicher ist es, an Simon Kantheras zu denken, der bald nach Caligulas Ermordung von Agrippa I. als Hohepriester eingesetzt wurde (Jos. A XIX 6,2). Als Priester wird er schon vorher im Tempel tätig gewesen sein. Büchler<sup>40</sup> hält שמעון für eine Korruptel aus ישמעאל = Ismael ben Phiabi; Klaus-

<sup>38</sup> Philon, *Legatio*, 29–30. Jos. A XVIII 261; B II 185.

<sup>39</sup> שולדות ישראל V 92, Anm. 3.

<sup>40</sup> *Chwolson-Festschrift* S. 15.

ner<sup>41</sup> denkt an Chilkija den Grossen; wieder anders Poznański.<sup>42</sup> Die folgenden Verhandlungen zwischen Petronius und den Juden fanden in Ptolemais—Akko<sup>43</sup> und Tiberias<sup>44</sup> im Frühjahr und Herbst 40 statt. Der Legat forderte die Juden auf, lieber auf ihren Gott als auf ihn zu vertrauen; auch nach Philon<sup>45</sup> und Josephus<sup>46</sup> hat Petronius Hochachtung vor der jüdischen Religion empfunden. Caligula wurde am 24. Januar 41 ermordet;<sup>47</sup> es ist also sehr wohl möglich, dass die Nachricht hiervon am 22. Schebat in Jerusalem oder bei Petronius eintraf.

### XXXII. 16. Adar.

*Am 16. des Monats begann man, die Mauer von Jerusalem zu erbauen. Nicht zu trauern.*

Zum Text: Das Scholion besteht aus zwei Teilen. Nur der erste ist von historischem Wert; der zweite (fehlt in Ms. Parma) ist eine blosse Aneinanderreihung von Bibelstellen mit geringfügigen Varianten zwischen den einzelnen Handschriften.

Erklärung: Auffällig ist, dass nicht die Einweihung der Mauer (wie am 7. Ijjar und 4. Elul), sondern der Beginn des Baues gefeiert wird. Wenn das Scholion von „Heiden“ spricht, die die Mauer zerstört hatten, so können damit nur die Syrer gemeint sein. Graetz denkt an die Umwallung der unteren Bezetha, deren Vollendung er auf den 4. (7.) Elul setzt. Aber ob die Umwallung der Bezetha mit der „dritten Mauer“ identisch ist, ist noch immer unsicher. Krauss (*REJ* LXXI 160) nimmt an, es werde der Beginn von Nehemias oder Simons Mauerbau gefeiert, dessen Vollendung er auf den 7. Ijjar, bzw. 4. Elul setzt. Näher liegt es wohl, mit Ad. Schwarz<sup>48</sup> an Agrippas „dritte Mauer“ zu denken, deren Vollendung infolge römischen

<sup>41</sup> השלח XXI 110, Anm. 3.

<sup>42</sup> *MGWJ* XLIV 515.

<sup>43</sup> Philon c. 32f. Jos. A XVIII 8, 2; B II 10, 1–3.

<sup>44</sup> Jos. A XVIII 8, 3–6; B II 10, 3–5.

<sup>45</sup> c. 31.

<sup>46</sup> A XVIII 280ff.; B II 201.

<sup>47</sup> Willrich, *Klio* III 459.

<sup>48</sup> *MGWJ* LXI 410.

Einspruchs unterblieb.<sup>49</sup>—Dalmans Zweifel, ob nicht einfach gemäss Neh. 6.15 vom 7. Ijjar 52 Tage zurückgerechnet sind, scheint mir unbegründet zu sein.

## 2. Revolutionsgedenktage

XXXIII. 25. Siwan.

Am 25. des Monats wurden die Steuerpächter aus Judäa und Jerusalem beseitigt.

Zum Text: Ms. Parma hat: „aus Jerusalem.“—Im Scholion, bzw. in den Paralleltexen, ist die Reihenfolge der Völker:

ŞEDA LA-DEREK	MS. PARMA	MS. MICHAEL	BAB. TALMUD SANH. 91A	VULGATAHAND- SCHRIFTEN UND GEN. I. LXI, 7
1. Afrikaner	Afrikaner	Kanaanäer	Afrikaner	Ismaeliten
2. ———	Ismaeliten	Ismaeliten	Aegypter	Kanaanäer
3. ———	———	Aegypter	Ismaeliten u. Keturasöhne	Aegypter

Die Vulgatahandschriften sind also, wie schon Brann (*MGWJ* XXV 445ff.) gezeigt hat, von Genesis rabba abhängig. Dagegen sind Ms. Parma und Ms. Michael, von *Şeda la-Derek* gestützt, unabhängig von Talmud und Genesis rabba. Ihr Text war deshalb zugrunde zu legen. Die folgende Legende von Alexanders Besuch in Jerusalem fehlt in Ms. Parma; dies beweist aber nichts, da der Text unter Hinweis auf die talmudische Parallelstelle gekürzt ist und der Redaktor nicht einmal den Unterschied in der Reihenfolge der Völker bemerkt hat; ebenso gut mag er übersehen haben, dass Alexanders Besuch im Talmud nicht erwähnt ist (dagegen findet er sich in Genesis rabba).

Erklärung: דימוסנאי erklären Graetz und ihm folgend Derenbourg, Schwab (S. 246f.), E. Schwartz,<sup>50</sup> Zeitlin, Klausner<sup>51</sup> und Schlatter mit *δημοσιῶναι* = publicani; der Tag bezieht sich demnach auf die Einstellung der Steuerleistungen an die Römer (Jos. B II 403. 405). Da diese nach dem Abzug des Florus (17. oder 18.

<sup>49</sup> Vgl. מוקניק — ל. א. מאיר, חפירות החומה השלישית של ירושלים העתיקה. א. ל. סוקניק and L. A. Mayer, *The Third Wall of Jerusalem*. Jerusalem 1930

<sup>50</sup> *Christliche und jüdische Ostertafeln*, Berlin 1905, S. 142.

<sup>51</sup> היסטוריה ישראלית IV S. 115.



Artemisios; Jos. B II 315) erfolgte, ist die Lesart des Talmuds (24. Nissan) zu verwerfen.—Cassel (S. 94–96), Dalman und Schmilg bringen den Tag in Verbindung mit Demetrios' II. Steuererlass für Simon (I Mak. 13.39), auf den sich aber nach unserer Erklärung schon der 27. Ijjar bezog. Allerdings will Schmilg (S. 43, Anm. 1) für Aufhebung der Krongelder und der sonstigen Steuern zwei Feiertage ansetzen, dagegen spricht aber der Wortlaut des 1. Makkabäerbuches (13.39–40). Zudem ist *δημοσιῶναι* in vorrömischer Zeit in der Bedeutung „Steuerpächter“ nicht belegt (vgl. Preisigke, *Fachwörter* s.v.). Daran scheitert auch Herzfelds und Branns Annahme (*Gesch.* I 408; *MGWJ* XXV 453), es sei die Entfernung der fremden Steuerpächter zur Zeit des Tobiaden Josef gemeint. Schlatter (*Geschichte Israels* Anm. 108) bezieht den Tag auf die von Lysias verfügte Abführung des Menelaos nach Beroia (2 Mak. 13.3–8), aber der Plural *דִּימוֹסִיָּאִי* passt weder formal noch der Bedeutung nach auf diesen.—Nach der Flucht der Afrikaner (Kanaanäer) haben die Vulgatahandschriften und der Talmud folgenden Satz (anstelle der beiden letzten Sätze in Ms. Parma): Es wird gelehrt. Dies war ein Erlassjahr; den betreffenden Tag aber erklärte man zum Feiertage. Hiermit bringt Büchler (*JQR* XIII 688, 1) die Tosefta Ahilot XVIII 16 berichtete Episode in Verbindung, dass die griechischen Bewohner von Caesarea einmal im Erlassjahre in den Circus gingen und die Juden dies benutzten, um den Obstmarkt zu plündern, und setzt sie in die unruhigen Jahre vor Ausbruch des jüdischen Krieges (entweder 61–62 oder 62–63).—Lévi (*REJ* LXIII 211ff.) hat darauf aufmerksam gemacht, dass die Argumente im Streite zwischen Aegyptern und Juden auch Tertullian (*Adversus Marcionem* II 20) aus Alexandrinischen Debatten bekannt waren. Danach könnte das Scholion noch aus dem Ende des 2. Jahrhunderts stammen (vgl. auch Aptowitzer, *REJ* LXXXII 279). Ob Theodoretos (1. Hälfte des 5. Jahrhunderts) dieselben Argumente dem Scholion, dem babylonischen Talmud, dem Midrasch oder mündlicher Belehrung durch Juden entnahm, lässt sich nicht sagen (Kommentar zu Ex. 11.2; Louis Ginzberg, *Legends of the Jews* V, Philadelphia, 1925, S. 436, Anm. 233).—In der Lohnrechnung wird in Ms. Michael vorausgesetzt, dass die Mine 6000 Zuz hat, während sie nach Krauss

(*Talmudische Archäologie* II 406) nur 200 Zuz hatte; in den Vulgatahandschriften, *Genesis rabba* und im Talmud ist die Rechnung nicht zu Ende geführt und deshalb nicht nachzuprüfen; in Ms. Parma fehlt die Stelle. Die Flucht der Gegner nach ihrer Niederlage erinnert an I Mak. 10.61ff.: Als Jonathan sich bei Alexander Balas in Ptolemais befand, verklagten ihn die Hellenisten bei dem Könige; dieser aber ehrte ihn öffentlich, worauf sie „sämtlich flohen.“ Eine Erinnerung daran scheint sich im Scholion erhalten zu haben, nur dass die Ueberlieferung den unbekannten Alexander Balas mit Alexander dem Grossen verwechselte.—Alexander der Grosse ist sicherlich nicht in Jerusalem gewesen;<sup>52</sup> wohl aber dankte Antiochos der Grosse 203 den Juden für den freundlichen Empfang in Jerusalem und besonders dafür, dass sie ihm mit der *γερουσία* entgegengezogen waren (Jos. A XII 3,3). Hierauf scheint unsere Legende zurückzugehen.—Dass unter den Kanaanäern die Phöniker zu verstehen sind, zeigen sowohl Gen. 10.15, wo Sidon als Erstgeborene Kanaans bezeichnet wird, wie griechische Zeugnisse, wonach die Phöniker selbst ihr Land Kanaan genannt haben.<sup>53</sup> In der Bezeichnung der Kanaanäer (Phöniker) als „Afrikaner“ steckt eine Erinnerung an die karthagisch-phönizische Herrschaft über grosse Teile Nordafrikas; bekannt ist, dass umgekehrt noch zur Zeit Augustins<sup>54</sup> die afrikanischen Bauern sich als Canani bezeichnet haben.

#### XXXIV. 17. Elul.

*Am 17. des Monats zogen die Römer aus Jerusalem ab.*

Zum Text: Die Erweiterung: „Und sie konnten vor ihnen nicht am Tage, sondern nur in der Nacht aus- und eingehen,“ stammt aus dem Scholion zum 23. Ijjar. Sie fehlt in Ms. Michael.

Erklärung: Das Scholion versteht unter den „Römern“ Griechen und unter ihrem Abzug aus Jerusalem die Besiegung durch die Hasmonäer. Diese Auffassung erklärt sich wohl aus

<sup>52</sup> Vgl. Niese, *Geschichte der griechischen und makedonischen Staaten seit der Schlacht bei Chaeroneia* I, Gotha 1893, S. 83, Anm. 3.

<sup>53</sup> Vgl. Ed. Meyer, *ZAW*, NF VIII 6, Anm. 2.

<sup>54</sup> *Epistolae ad Romanos exp. inch.* 13.

dem Sprachgebrauch der byzantinischen oder arabischen Zeit, ist aber ohne historischen Wert. Cassel (S. 107) liest רמאי und versteht darunter die Hellenisten, ein Ausdruck, der sonst nirgends belegt ist. Zudem heisst רמאי „Betrüger“ und nicht „Verräter.“ Graetz, Schwab (S. 248), Dalman und Klausner<sup>55</sup> beziehen den Tag auf die Räumung Jerusalems durch die Römer bei Ausbruch des Aufstandes. Die Römer sind aber gar nicht abgezogen, sondern dies waren die Truppen Agrippas, die Römer dagegen wurden niedergemacht (Jos. B II 17, 8–10). Graetz fühlt diese Schwierigkeit selbst und erklärt: „Am 17. Elul war also in Jerusalem und dem eigentlichen Judäa kein Römer zu erblicken. Diesem hochwichtigen Ereignis ist also der Gedenktag gewidmet.“ E. Schwartz erklärt רומאי als „Soldaten“ schlechthin. Dies war wohl möglich (vgl. Nöldeke, *ZDMG* XXII 518), doch muss zur Zeit der Abfassung der Fastenrolle, im ersten Jahre des Aufstandes gegen Rom, jeder Mensch unter רומאי die Römer verstanden haben. Auch Zeitlin denkt an Agrippas Truppen. Er muss hierzu den 6. Gorpaios mit dem 17. Elul gleichsetzen, was nur möglich ist, wenn Josephus bezw. seine Vorlage den tyrischen Kalender benutzte. Dass dies aber nicht durchweg der Fall war, zeigt die Erklärung des 7. Kislew.—Eine befriedigende Erklärung fehlt. Wahrscheinlich verliessen an unserem Tage die römischen Beamten Jerusalem.—Das Scholion bringt noch die Erzählung, dass die Griechen das jus primae noctis für sich in Anspruch genommen haben. Krauss (*REJ* XXX 41) hält die Erzählung für historisch, bezieht sie aber auf die Zeit Trajans und Hadrians, was von Lévi (*ibid.* 226ff.) mit Recht abgelehnt wird. Es handelt sich vielmehr um eine Sage, die in die Zeit des Antiochos Epiphanes gesetzt wurde (so auch Schmidt, *Jus primae noctis* 169ff.; *Zs. f. Ethnologie* XIV 54).

### XXXV. 22. Elul.

*Am 22. des Monats begann man wieder, die Uebeltäter zu töten.*

Zum Text: Ms. Parma enthält nur den ersten, originalen Teil des Scholions; dieser fehlt in Ms. Michael. Der zweite Teil

<sup>55</sup> דיסטוריה ישראלית IV 119.

stammt mit leichten Abweichungen aus dem babylonischen Talmud (Sanh. 46a = Jeb. 90b). Er ist nur wegen der inhaltlichen Aehnlichkeit übernommen worden. Menachem ibn Zerah bezieht den Tag auf einen Sieg über die Samaritaner.

Erklärung: Das Scholion sagt, dass nach Befreiung von einer Fremdherrschaft den Verbrechern drei Tage Frist gelassen wurde, „Busse“ zu tun; es denkt also anscheinend an politisch oder religiös Abtrünnige. Seine Auslegung ist wohl durch das שמדרינא veranlasst; dieses steckt wohl auch in dem שמדונים in *Šeda la-Derek*. Die Unsicherheit des Scholions zeigt sich schon darin, dass es nicht einmal angibt, ob es sich um die Befreiung von griechischer oder römischer Herrschaft handelt. Graetz, Cassel (S. 107) und Schwab (S. 224) verwiesen auf I Mak. 14.14: Simon wird gepriesen, dass er „alle Gottlosen und Uebeltäter vertilgte,“<sup>56</sup> aber der ganze Vers in seinem biblischen Stil ist so allgemein gehalten, dass die Auslegung unsicher ist. Auch die zweite, von Graetz angeführte Stelle<sup>57</sup> erwähnt nicht die Tötung der Hellenisten.—Zeitlin verstand unter den „Uebeltätern“ die von Metilius geführten römischen Truppen (Jos. B II 17.8), was mir unannehmbar erscheint. Vor allem aber bleibt auch so das „wieder“ (חבר) des Textes unerklärt. Es kann sich nur auf die Wiederherstellung der Blutgerichtsbarkeit beziehen (so, wenn auch zögernd, Dalman). Bekanntlich hatten die Prokuratoren das ius gladii. Fünf Tage nach dem Abzug der römischen Beamten ist demnach von einem jüdischen Gericht das erste Todesurteil gefällt worden, und der Erinnerung hieran ist unser Tag gewidmet.

#### XXXVI. 4. Elul.

*Am 4. Elul war die Einweihung der Mauer von Jerusalem. Nicht zu trauern.*

<sup>56</sup> καὶ ἐστήρισεν πάντας τοὺς ταπεινοὺς τοῦ λαοῦ αὐτοῦ τὸν νόμον ἐξεῆστησεν, καὶ ἐξῆρεν πάντα ἄνομον καὶ πονηρόν. (Vgl. Jes 9. 17).

<sup>57</sup> I Mak. 14.36: καὶ ἐν ταῖς ἡμέραις αὐτοῦ εὐοδώθη ἐν ταῖς χερσὶν αὐτοῦ, τοῦ ἐξαρθῆναι τὰ ἔθνη ἐκ τῆς χώρας αὐτῶν, καὶ τοὺς ἐν τῇ πόλει Δαυεὶδ τοὺς ἐν Ἱερουσαλὴμ οἱ ἐποίησαν ἑαυτοῖς ἄκραν ἐξ ἧς ἐξεπορεύοντο, καὶ ἐμίανον κύκλῳ τῶν ἀγίων, καὶ ἐποιοῦν πληγὴν μεγάλην ἐν τῇ ἀγνείᾳ.

Zum Text: Ms. Cambridge und die editio princeps haben den 7. Elul, alle anderen Handschriften und *Şeda la-Derek* den 4. Im Scholion hat Ms. Parma denselben Text wie beim 16. Adar; da er dort durch die übrigen Handschriften bestätigt wird, ist er hier nicht zu halten.

Erklärung: Das Scholion enthält zwei verschiedene Begründungen; die eine bezieht den Tag auf Nehemias Mauerbau, die andere auf eine spätere Zeit. Nun war Nehemias Mauerbau am 25. Elul beendet; der Passus, dass man dann noch bis zur Einsetzung der Tore gewartet habe, ist also offenbar durch Gedankenlosigkeit aus dem Scholion zum 7. Ijjar übernommen. Das nächste Stück behandelt die Konsekrierung zweier am Oelberg liegender Stadtteile, wozu u. a. ihre völlige Umschliessung durch eine Mauer erforderlich war. Der untere galt als völlig geweiht, nicht aber der obere. (Zum Scholion vgl. Krauss, *REJ* LXXII 54f. und Dalman, *Palästina-Jahrbuch* XIV, 1918, S. 63, Anm. 1). Dass dieser von den Exulanten besiedelt worden wäre, ist so unwahrscheinlich wie möglich. Vielmehr werden diese den unmittelbar an die alte Mauer anschliessenden unteren Stadtteil angelegt haben, und man wird im Laufe der Zeit das Bedürfnis empfunden haben, ihn mit einer Mauer zu versehen und ihn so der Altstadt religionsgesetzlich gleichzustellen. Graetz nimmt an, dass er in römischer Zeit ummauert worden ist und dass unser Tag die Einweihung dieser Mauer feiere; ihren Baubeginn setzt er auf den 16. Adar. Der obere Stadtteil dagegen wird erst nach Ausbruch der Revolution seine Ummauerung erhalten haben, als die „dritte Mauer“ Agrippas I. in aller Eile fertig gestellt wurde. Daher fehlte ein König bei der Einweihung, die wahrscheinlich am 4. Elul 67 gefeiert wurde (ähnlich Ad. Schwarz *MGWJ* XLI 411).—Cassel (S. 104ff.) will den Tag als blosser Wiederholung des 7. Ijjar streichen. Krauss (*REJ* LXXI 156), Zeitlin und Dalman denken an die Makkabäerzeit (Simon oder Jonathan, I Mak. 10.45; 13.10; vgl. zum 7. Ijjar).



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 אורחות חיים לר' אהרן הכהן מלוניל. חלק א', פרינצי תק"י. חלק ב', ברלין תרס"ב.  
 בית המדרש ליעללינעק. חדר ו', ווינא תרל"ח.  
 מדרש בראשית רבא הוצ' טהעאדאר-אלבעק. ברלין תרע"ב ואילך.  
 הלכות גדולות לר' שמעון קירא. ווארשא, תרל"ח.  
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 מדרש לקח טוב המכונה פסיקתא וטרטא לר' טוביה בן אליעזר. וניציא ש"ו.  
 ס' מאור עינים לר' עזריה מן האדומים. וילנא תרפ"ו.  
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 משניות. ניו-יורק וברלין תרפ"ד.  
 המשנה אשר עליה נוסד התלמוד הירושלמי . . . הוצ' הנרי לו. לונדון תרס"ג.

- סדר אליהו רבה וסדר אליהו זוטא הוצ' מאיר איש שלום. ווינא תרס"ד.  
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 ספר ערוך השלם הוצ' קאהוט. וויען תרל"ח ואילך.  
 מדרש פנים אחרים: ספרי דאגדתא על מגלת אסתר הוצ' שלמה באבער. ווילנא תרמ"ו.  
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 לוי גינצבורג, שרידי הירושלמי א. ניו-יורק תרס"ט.  
 תשובות הגאונים מתוך ה"גניזה" . . . מאת שמחה אסף. ירושלם תרפ"ט.

## ABKÜRZUNGEN UND ZEICHEN

'פ—Ms. De-Rossi 117, R. Biblioteca Palatina in Parma.

'ס—Ms. Michael 388, Bodleiana in Oxford.

'ו—Ms. Halberstam-Epstein, Bibliothek der israelitischen Kultusgemeinde, Wien.

'ק—Ms. Add. 648, University Library, Cambridge.

'ד—editio princeps, Mantua 1513.

'ב—Ms. Opp. Add. fol. 55, Bodleiana in Oxford.

'ה—Uebereinstimmung von 'ו 'ק 'ד bzw. 'ו 'ק 'ב 'ד (Vulgata).

()—fehlt in der Handschrift, dafür das der Klammer Folgende.

[]—Zusatz der Handschrift.

<>—Variationen bei allgemeiner Uebereinstimmung mehrerer Handschriften.

Grosse Buchstaben, unterstrichen—aramäischer Text.

Grosse Buchstaben, nicht unterstrichen—Kern des Scholions.

Kleine Buchstaben—Erweiterungen des Scholions.

Sperrdruck—Bibelverse. Sie werden in den Handschriften oft nur mit den Anfangsworten zitiert. In diesern Falle wurde der Text ergänzt, ohne dass dies im Apparat vermerkt wurde. Ebenso wurden im Text die Abkürzungen der Handschriften stillschweigend aufgelöst und die Orthographie normalisiert; dagegen wurde im Apparat die Schreibung der Handschriften beibehalten.



# מגלת תענית

על פי כתבי יד ודפוסים ישנים

הוציאה לאור

צבי ליכטנשטיין

## מגלת תענית

2 אלין יומיא דילא לאתענאה בהון ומקצתהון דילא למספד בהון.  
מן ריש ירחא דניסן עד תמניא ביה אתוקם תמידא דילא למספד.  
4 מן תמניא ביה ועד סוף מועדא אתותב חגא דילא למספד ודילא  
להתענאה.

■ מנחות ס"ה ע"א. תענית י"ז ע"ב. ירוש' תענית ב' י"ג (ס"ו ע"א). ירוש' מגלה א' ו' (ע' ע"ג). הלכות גדולות הוצ' הילדסהיימר עמ' 616; הוצ' ורשא רפ"ב ע"ב. פירוש תענית המיוחס לרנמ"ג י"ז ע"ב. רש"י ב"ב קט"ו ע"ב. תוספות מנחות ס"ה ע"א ד"ה מריש. שבלי הלקט ע"ד ע"ב; קל"ב ע"א וע"ב. יחזקי תנאים ואמוראים ערך בר נתן. תניא עמ' ס"ב. 3 תענית י"ז ע"ב. מנחות ס"ה ע"א. ירוש' תענית ב' י"ג (ס"ו ע"א). ירוש' מגלה א' ו' (ע' ע"ג). הלכות גדולות הוצ' הילדסהיימר עמ' 616; הוצ' ורשא רפ"ב ע"ב. פירוש תענית המיוחס לרש"י י"ז ע"ב. תוספות שם. רש"י מנחות ס"ה ע"א. תוספות שם. מדרש פנים אחרים עמ' 71. ילקוט במדבר ס"י תשע"ז. ילקוט אסתר ד'. ר' שלמה אלקבץ, מנות הלוי קל"ז ע"א. פירוש תענית המיוחס לרנמ"ג י"ז ע"ב. ר' בצלאל אשכנזי, מנחות ס"ה ע"א. ערוך ערך רש. 4 מנחות ס"ה ע"א. תענית י"ז ע"ב. הלכות גדולות הוצ' הילדסהיימר עמ' 616; הוצ' ורשא רפ"ב ע"ב. רש"י מנחות ס"ה ע"א. תוספות ■ ד"ה מריש. פירוש תענית המיוחס לרש"י ולרנמ"ג י"ז ע"ב. פירוש ר' בצלאל אשכנזי שם.

1 חסר ב ד' ו': ק' פרקי מגלת תענית ב' ס' ד'; פ' אתחיל מגלת תענית ב"ד.  
2 א' ה' להתענאה: ירוש' תענית: להתעניא, להתעניה; בשאר המקורות: להתענאה. תוספות מנחות (בהון). ירוש' תענית מחליף למספד ולהתעניא. ■ א' ק', תענית. מנחות, הלכות גדולות הוצ' הילדסהיימר, רנמ"ג המדומה, רש"י המדומה על תענית י"ז ע"ב, תוספות מנחות, תוספות תענית: מריש; ירוש' תענית, ירוש' מגלה: בריש ירחא דניסן דיתקן ה', תענית, הלכות גדולות הוצ' ורשא, תוספות תענית. ר"ש אלקבץ: ועד. ר"ש אלקבץ: יומין תמניא. רש"י המדומה על תענית: דאיתוקם: תוספות שם: דהא איתוקמא. א' לא. תוספות מנחות מנרסות להתענאה, כ"כ ר"ש אלקבץ. הלכות גדולות הוצ' הילדסהיימר [בהון עד תמניא ביה]. מדרש פנים אחרים: דלא למספד בהון ודלא להתענא' בהון. ר"ש אלקבץ, ילקוט במדבר [בהון]. 4 א' ה' ומתמניא; מנחות, תענית, רש"י המדומה שם: מתמניא. א' ק', הלכות גדולות הוצ' הילדסהיימר, רש"י המדומה על תענית: עד. פ' איתקין. א' ה' [דשבויעא]. פ' ק' ד', תענית, הלכות גדולות, פירוש תענית המיוחס לרש"י ולרנמ"ג: דלא למספד, מנחות: דילא להתענאה.

- בשבועה לאייר חנכת שור ירושלם ודילא למספד.  
 6 בארבעת עשר ביה פסחא זעירא דילא למספד ודילא להתענאה.  
 בעשרין ותלתא ביה נפקן בני חקראי מן ירושלם.  
 8 בעשרין ושבועה ביה אתנטילו כלילאי מן ירושלם דילא למספד.  
 בארבעת עשר לסיון אחידת מגדל צור.  
 10 בחמיסר ביה ובשתת עשר ביה גלו אנשי בית שאן ואנשי בקעתא.  
 בעשרין וחמשה ביה אתנטילו דימוסנאי<sup>9</sup> מיהודה ומירושלם.  
 בארבעה בתמוז עדא ספר גזרתא.  
 12 בחמשת עשר באב זמן אעי כהניא ודילא למספד.  
 בעשרין וארבעה ביה תבנא לדיננא.  
 14

6 חולין קכ"ט ע"ב. 7 חשמנאים א' י"ג נ"א. 9 מגלה ו' ע"א.  
 יוחסין ערך אבהו. 10 כפתור ופרח פ"ז. 11 סנהדרין צ"א ע"א.  
 ילקוט בראשית סי' ק"י. 14 ב"ב קט"ו ע"ב. רש"י **ש** שאלות קל"ה.  
 מדרש הגדול בראשית סי' תקמ"ג. ילקוט בראשית סי' ק"ט. ילקוט במדבר סי'  
 תשע"ד.

5 א' [פרק ב':] ה' [פרק ב' אייר.] א' ה' באייר. א' העיר: ה' שיר. ו' ירושלם.  
 א' ה' דלא. 6 א' בארביסר: פ' ו' ק' בארבעה עשר. ק' ד'  
 [נכיסת]. א' דלא ודלא להתענאה: פ' ודלא למספד: ה' דלא למספד.  
 7 פ' בעשרים ותלתא. צדה לדרך: בני סקרא: א' ביה הקראים. ק' ד' מירושלם;  
 ו' מירושלם. 8 חסר ב' ובצדה לדרך. א' ה' בעשרים ושבעה. א' איתנטילת כלילא: ו'  
 איתנטילו כלילא. א' מירושלם ומיהודה: ק' ד' מיהודה ומירושלם. ה' (דילא למספד).  
 9 א' [פרק ג':] ה' [פרק ג' סיון.] א' בארביסר: פ' ו' בארבעה עשר: ק' ד'  
 בשבעה עשר. א' ה' בסיון. ו' אחיות. פ', כ"י אוקספורד 366 והגדות התלמוד צר: ו',  
 כ"י בריט. מוז. Harley 5508 שר; ערוך ורש"י: שר; כ"י מינכן 95: שיר. 10 פ' ו'  
 ד' בחמשה עשר. א' ובשיתסר: פ' ק' ד' ובשיתא עשר. א' (אנשי). א'  
 (שאן): ו' שן. א' כפתור ופרח (ואנשי). ה' כפתור ופרח: בקעתה. 11 בכל  
 כתבי היד: בעשרים וחמשה; צדה לדרך כ"י אוקספורד וכ"י לונדון: בכל בן;  
 הוצ' ראשונה: בכ"א; כ"י אדלר: בכ"א בתמוז; סנהדרין: בעשרים וארבעה בניסן;  
 ילקוט: בכ"ה בניסן. פ' נשלח. א' דמחנאי: פ' בני דימוסנאי. פ' מן ירוש': ו' מיהודה  
 ומירושלם. 12 ה' [פרק ד' תמוז.] א' בעשרה: ק' ד' בארבעה עשר: צדה לדרך כ"י  
 לונדון: ד"ד; כ"י אוקספורד, כ"י אדלר והוצ' ראשונה: בול. א' (עדא) במילת ואעדיאת  
 את. ה' [דלא למספד]. 13 ה' [פרק ה' אב]. כל כתבי היד: בחמשה עשר.  
 א' זמנא דאעי דכהניא. א' ה' דלא. פ' [בהון]. צדה לדרך: בט"ו באב בו מתי  
 מדבר והיו פוסקים מלכרות עצים למערכה. 14 ב"ב (דפוסים) ושאלות: כ"ד לטבת;  
 כ"י מינכן 95: כ"ח בו; מדרש הגדול: כ"ז בו. כל כתבי היד: בעשרים וארבעה.  
 שאלות: יתבנא בדינא. א' דיננא; מדרש הגדול: לדינא.

<sup>9</sup> ἀκρα

<sup>10</sup> ἡμωσιωναι

- בארבעה באלול חנכת שור ירושלים ודילא למספד.  
 16 בשיבסר ביה נפקו רומאי מן ירושלים.  
 בעשרין ותרין ביה תבו לקטלא משמדיא.  
 18 בתלתא בתשרי בטילת אדכרתא מן שטריא.  
 בעשרין ותלתא למרחשון אסתתר סוריגא מן עזרתא.  
 20 בעשרין וחמשא ביה אחידת שור שמרון.  
 בעשרין ושבעה ביה תבת סלתא למסק על מדבחא.  
 22 בתלתא בכסלו אתנשילו סימאאתא<sup>3</sup> מן דרתא.  
 בשבעה ביה יום טב.  
 24 בעשרין וחד ביה יום הר גרזים דילא למספד.  
 בעשרין וחמשה ביה חנכתא תמניא יומין דילא למספד בהון.

18 ר'ה י'ח ע"ב. אור זרוע ב' סי' רנ"ז. תוספות ב"ב קמ"ב ע"א ד"ה לפי. מאור  
 עינים ד' כ"ה. 19 מדרות ב' ג'. יומא ט"ז ע"א. 24 יומא ט"ט ע"א. תמיד כ"ז  
 ע"ב. כפתור ופרח פ"ה ע"מ' 59. 25 שבת כ"א ע"ב. אור זרוע ב' סי' שכ"א.  
 שאילתות ע"מ' ל"ח. שבלי הלקט ע"ד ע"ב; קע"ב ע"ב. הלכות גדולות הוצ' הילרסהיימר  
 ע"מ' 83.

15 ה' [פרק ו' אלול]. ק' ד' בשבעה. ה' [יום]. ו' ק' שיר. א' שורי הבית.  
 א' ה' דלא. 16 פ' ה' בשבעה עשר. א' ה' איתנשילו. א' חומא ביהודאי.  
 א' ה' מיהודה ומירושלם. 17 א' ותרתי. א' ה' תבנא. א' מטמא.  
 18 ה' [פרק ו' תשרי]. ה' בשלשה. תוספות. מאור עינים: אתנשילת. א' ו' ד'  
 אדרכתא. פ' ו' שטרא. 19 ה' [פרק ח' מרחשון]. כל כתבי היד: בעשרים.  
 ק' ד' ושלשה. צדה לדרך כ"י אדלר, כ"י לונדון, והוצאה ראשונה: בכ"ב; כ"י  
 אוקספורד: בכ"ג. א' ק' ד' במרחשון. א' סיתרו ית טירתא דעזרתא ואותיב  
 ענא. פ' סתור; גרץ: אסתתם או אסתכר. ה' סוריגה; פ' סוריגא. 20 פ'  
 א' ו' בעשרים. א' ותמניא, אבל בין כ"ג וכ"ז חשון; פ' ו' וחמשה. א' ה' שמרון  
 שורא; פ' בפירוש העברי: שמרון רבה. 21 פ' א' בעשרים ושבעה. א'  
 (סלחא) מטא. פ' א' למנדבחא. 22 ה' [פרק ט' כסלו]. א' (אתנשילו) עדו.  
 א' סמוחא; ו' סימונתא. פרנקל בירחון ג' (1854) 444, הערה ט' גורס: קרתא;  
 גרץ: עזרתא. 23 פ' א' (יום טוב). ה' טוב. 24 פ' א' ק' בעשרים.  
 פ' ואחד בו. כפתור ופרח ועין יעקב: באחד ועשרים בטבת; דפוסי התלמוד:  
 בעשרים וחמשה בטבת. א' (יום הר גרזים) אנרוים. פ' א' (דילא למספד). כ"י  
 אוקספורד 366 [ביה]: כ"י מינכן 95 [בהון]. 25 פ' א' ו' ד' בעשרים  
 וחמשה. פ' בו. א' יומי חנוכה; שבת: יומי דחנוכה; פ' ד' חנכת; ק' חנוכה;  
 ו' יום חנכת. א' (תמניא יומין); פ' יומין תמניא; שבת: תמניא אינון; אור זרוע: תמניא  
 אלין. שבת [ודילא להענאה בהון].

- 26 בעשרין ותמניא לטבת יתיבת כנשתא על דינא.  
בתרין בשבט יום טב ודילא למספד.  
28 בעשרין ותרין ביה בטילת עבדתא דיאמר סנאה לאיתאה  
להיכלא דילא למספד.  
בעשרין ותמניה ביה אתנמיל אנמיוכוס מלכא מן ירושלם.  
30 בתמניה ובתשעה לאדר יום תרועת מטרא.  
בתרין עשר ביה יום טיריון.  
32 (בתרין עשר ביה יום טורינוס).  
בתלת עשר ביה יום ניקנור.  
34 בארביסר ביה ובחמיסר ביה יומי פוריא אנון דילא למספד.

28 סוטה ל'ג ע"א. חוספתא ■ י"ג ו'. שיר השירים רבה ח' ט'. 31 ירוש' מגלה  
א' ו' (ע' ע"ג). ירוש' תענית ב' י"ג (ס"ו ע"א). היום חסר בס' צדה לדרך.  
32 תענית י"ח ע"ב. ס' האגודה מגלה ס' א'. פירוש תענית המיוחס לרנ"ג י"ח ע"ב.  
33 חשמונאים א' ו' מ"ט. חשמונאים ב' ט"ו ל"ו-ל"ז. תענית י"ח ע"ב. ירוש' תענית  
ב' י"ג (ס"ו ע"א). ירוש' סגולה א' ו' (ע' ע"ג). יוסף בן מתתיהו, עתיקות היהודים י"ב  
ס' תיב. 34 תענית י"ח ע"ב. מגלה ה' ע"ב. ירוש' תענית ב' י"ג (ס"ו ע"א).  
ירוש' מגלה א' ו' (ע' ע"ג). הלכות גדולות הוצ' הילדסהיימר ע"פ 108. שבלי הלקט  
קע"ז ע"א. אור זרוע ב' ס' שע"א. מחזור ויטרי ע"פ רי"ט.

26 ה' [פרק י' טבת]. בכל כתבי היד: בעשרים: ה' ושמה: א' בפירוש העברי:  
ותלתא: א' ה' ו' בטבת. ק' יתיבא. פ' [כי] כנשתא. ק' בפירוש העברי: על דרתא:  
ד' בפירוש העברי: על דעתה. 27 ה' [פרק י"א שבט]. ה' בשנים. כל כתבי  
היד: טוב. א' (ודילא למספד): ו' ק' דלא למספד. 28 א' בעשרים ותרתי. א'  
דסנאה דאמר. א' ו' ד' להיתאה: לשיה"ש רבה: למיחרבא. סוטה: על היכלא: שיה"ש  
רבה: היכלא. פ' (דילא) ולא. 29 פ' א' ו' בעשרים. א' ה' ותמניא. א' (ביה).  
פ' א' נטל: ו' ד' אנמיל. ק' ד' אנמיוכוס. פ' א' (מלכא): ד' מלכא. א'  
בירושלם: ק' מירושלם. 30 ה' [פרק י"ב אדר]. א' ה' בתמניא באדר. פ' תרועות.  
31 חסר בכל כתבי היד ובס' צדה לדרך. 32 חסר ב' פ' א' ובס' צדה לדרך.  
תענית: בתריסר: ס' האגודה: י"ג. ס' האגודה: טרינוס. 33 א' ק' ד' בתליסר. ירוש'  
תענית יום חלת עשר. ו', תענית (ביה). פ' א' (יום). א' [ומלכותא דיונאי]: תענית [הוא].  
34 א' בארביסר ובחמיסר ביה: פ' ו' ק' בארבעה עשר ביה ובחמשה עשר ביה:  
ד' בארבעה עשר ובחמשה עשר ביה: תענית, מגלה, אור זרוע: את יום ארבעה עשר ואת  
יום חמשה עשר: כ" Columbia: ארביסר וחמיסר: ירוש' תענית, ירוש' מגלה: בארבעה  
עשר ובחמשה עשר: הלכות גדולות: יום ארבעה עשר וחמשה עשר: שבלי הלקט: בארבעה  
עשר בו ובחמשה עשר בו. ד' ימי: ירוש' תענית וירוש' מגלה (יומי): שבלי הלקט: יומא.  
מחזור ויטרי ושבלי הלקט: אליו. ירוש' תענית, ירוש' מגלה, אור זרוע (אנינו). פ' ולא.  
מגלה, הלכות גדולות, מחזור ויטרי [בהון].

בשנת עשר ביה שריו למבני שורא דירושלם דילא למספד.  
 בשובעת עשר ביה קמו עממיא על פלטת ספריא במדינת כלקים<sup>36</sup>  
 בבית זבדי והוה פרקן.  
 בעשרין ביה צמון עמא על מטרא ונחת להון.  
 (בכ"ה בו אחר שעברו שלש שנים ולא המטיר דיהם ה' על הארץ<sup>38</sup>  
 ונענה).  
 בעשרין ותמניא ביה אתת בשורתא טבתא ליהודאי דילא יעדון  
 מן אוריתא ולא למספד.  
 להן כל אנש דאיתי עלוהי מן קדמת דנא ייסר בצלו.<sup>40</sup>

36-38 ירוש' תענית ב' י"ז (ס"ו ע"א). ירוש' מגלה א' ו' (ע' ע"ג). 37 ירוש' תענית  
 ג' י' (ס"ו ע"ד). יוסף בן מתתיהו, עתיקות היהודים י"ד ס' כ"ב. 38 צדה לדרך  
 ה' א' ח'. 39 תענית י"ח ע"א. ר"ה י"ט ע"א. 40 תענית י"ב ע"א. ירוש' תענית  
 ב' י"ז (ס"ו ע"א). ירוש' מגלה א' ו' (ע' ע"ג). תשובות הנאונים מתוך הנניח עמ' קכ"ז.  
 מגלת בני חשמונאים עמ' ע"ב. ס' תניא עמ' ס"ב. אור זרוע ב' ס' ת"ד.

35 א' בשיחסי; ק' ד' ב' בשיחא עשר; ירוש' תענית וירוש' מגלה: בשית עשר.  
 פ' שריאו; ו' שבו. ירוש' מגלה: שרון. א' ד' ב', ירוש' מגלה: למבנא. א' שוריא.  
 פ' ק' ד' ב', ירוש' תענית וירוש' מגלה: שור ירוש'. א' דילא למספד. פ' ולא.  
 36 א' בשיחסי; פ' ה' בשבעה עשר. ירוש' מגלה: בשובעת עשר. א' ספרא. א'  
 במדינות. א' בליקות; פ' כלבוס; ו' בליקות; ק' ד' בליקות; ב' בליקות; ירוש'  
 תענית: כולקים. ה' ובית זבדא. ירוש' תענית וירוש' מגלה: בית זבדון. א' (והוה) והוא.  
 פ' פורקין. ו' [לישראל]; ק' ד' [בית ישראל]. נסטר, PSBA ט"ו עמ' 163-162  
 משער שנשתמר קטע מס' במאמר זה: בשמונה עשר באדר יום שעלה סליקוס ... ואותו  
 היום עשאוהו יום טוב. 37 צדה לדרך: בכ' התענו על המטר ולא נענו עד שהתפלל  
 חוני המעגל; ע"י יוסף בן מתתיהו. פ' א' בעשרים; ירוש' תענית בשנויי הנרסאות: י'  
 אדר, כ' אדר; י"ד ניסן. פ' א' ק' ד' צמו. א' (עמא); ירוש' תענית [כל] עמא;  
 ב' צמא. ה'. ירוש' תענית: למטרא. א' נחית. א' (להון) מיטרא; ירוש' תענית: לון.  
 ב' (ונחת להון). 38 רק בס' צדה לדרך. 39 פ' ו' בעשרים ותמניא. א'  
 (ביה). ב' (ליהודאי). א' (דילא) ... אוריתא. ה' מפתגמי אוריתא. תענית ור"ה  
 (דילא למספד). א' ה' דילא. 40 חסר בב'. ק' לבן; ד' לכך; ירוש' תענית:  
 להון. פ' ירוש' תענית וירוש' מגלה (כל). ירוש' תענית וירוש' מגלה: דיהוי. פ'.  
 ירוש' תענית וירוש' מגלה (מן קדמת דנא). פ' אסיר; ו' ק' ד' יאסר; ירוש' מגלה:  
 אסר. ב' [עצמן].



## מגלת תענית

אלין יומיא דילא לאתענאה בהון ומקצתהון דילא למספד  
 בהון. מן ריש ירחא דניסן עד תמניא ביה אתוקס תמידא דילא  
 למספד. שהיו בייתוסין אומרים מביאים תמידים משל יחיד זה  
 מביא שבת אחד וזה מביא שתי שבתות וזה מביא שלשים יום ומה<sup>5</sup>  
 היו דורשים אמרו את הכבש אחד תעשה בבקר ליחיד  
 משמע. אמרו להם חכמים אין אתם רשאים לעשות כן לפי שאין  
 קרבן בא אלא משל כל ישראל שנאמר צו את בני ישראל  
 ואמרת אליהם את קרבני לחמי לאשי ריח ניחחי<sup>10</sup>  
 תשמרו להקריב לי במועדו. קרבני זה הדם לחמי אלו חלבים  
 לאשי זה הקטרת. ריח זו הלבונה. ניחחי אלו הנסכים, וכל שהוא כריח ניחחי תשמרו להקריב  
 לי במועדו. שיהיו כלם באים מתרומת הלשכה. רבי עקיבא אומר מנין שלא יצא  
 וירעה בעדר תלמוד לומר תשמרו להקריב לי במועדו ולהלן הוא אומר  
 והיה לכם למשמרת עד ארבעה עשר יום מה להלן מבקרים אותו<sup>15</sup>  
 ארבעה ימים קדם לשחיטתו אף כאן. וכשגברו עליהם ונצחום התקינו שיהיו  
 שוקלים שקליהם ומניחים אותם בלשכה והיו תמידים קרבים  
 משל צבור וכל אותן הימים שדנום עשאוים ימים טובים.

18 במדבר כ"ח ב'.

8 במדבר כ"ח ב'.

6 במדבר כ"ח ד'.

14 שמות י"ב ו'.

4 מנחות ס"ה ע"א. פירושי תענית המיוחסים לרנ"ג ולרש"י י"ז ע"ב. תוספות ס"ה ד"ה  
 מריש. ילקוט במדבר ס"ז תשע"ז. ערוך ערך רש. 10 ספרי פנחס ס' קמ"ב.  
 ספרי זוטא ס' שכ"ב. 12 מנחות מ"ט ע"ב. ערכין י"ז ע"ב. פסחים צ"ו ע"א. ע"י ירוש'  
 פסחים ו' א' (ל"ז ע"א) ומכלתא בוא מסכתא דפסחא ס' ה'.

4-17 חסר בפ' א' שהיו חכמים אומרים אין התמידים באין משל צבור ביחוסין או'  
 משל יחיד הן באין שנ' את הכבש אחד תעשה בבקר ליחיד משמע. וחכמים או' תשמרו להקריב  
 לי לרבים משמע. התקינו שיהא היחיד שוקל שקליו ונתנו כל שנה ושנה ויהיה תמיד קרב  
 משל צבור והיינו דאמרי איתוקם תמידא. 4 ה' צדוקין; רנ"ג המדומה: מינין. 5 ד'  
 אחת. 6 ק' [נכתוב בתורה]. 7 ו' [ליחיד משמע]. 7 ו' (וכן) זה. 8 ו' ק' ד'  
 קרבן [צבור]. 11 ו' וכל [דבר]. 16 ק' ד' [נבקרים אותו ארבעה ימים קודם  
 לשחיטתו].

מן תמניא ביה ועד סוף מועדא אתותב חגא דילא למספר  
ודילא להתענאה. ואיזה חג זה יום טוב העצרת והלא לא נצרכו לכתב

כל הימים הטובים שבמנלה אלא שהיו דנין כנגד בייתוסים שהיו אומרים אין  
עצרת אלא לאחר השבת שנאמר וספרתם לכם ממחרת  
השבת. אמרו להם חכמים שבת בראשית קרויה שבת ויום טוב  
קרוי שבת שנאמר ביום הראשון שבתון ויום הכפורים  
קרוי שבת שנאמר תשבתו שבתכם והכל קרוי שבת שנאמר  
מלבד שבתות יי ואומר שבע שבתות תמימות  
תהיינה ועוד כתיב שבעה שבועות תספר לך. ואומר  
וחג שבועות תעשה לך בכורי קציר חטים.  
וביום הבכורים בהקריבכם מנחה חדשה ליי  
בשבועותיכם. ועוד כתיב וספרתם לכם ממחרת  
השבת מיום הביאכם. ואומר תספרו חמשים יום.  
לא תהיה ספירתך חמשים ואם כן נמצאת כי פעמים חמשים ואחד  
פעמים חמשים ושנים עד חמשים וששה. ועוד כתוב אחד אומר  
שבעת ימים מצות תאכלו וכתיב ששת ימים תאכל  
מצות היאך נתקמו שניהם אלא שבעה בישי' וששה בחדש ואם  
תאמר אחר השבת הנוף העומר אינן ששה בחדש. אמר חד ביהוסא  
לרבן יוחנן בן זכאי משה אוהב היה את ישראל והיה יודע שעצרת אינה אלא יום אחד וקבעה

4 ויקרא כ"ג ט"ו. 6 ויקרא כ"ג כ"ד (עם שנוי נוסחא). 7 ויקרא כ"ג ל"ב. ■ ויקרא  
כ"ג ל"ח. כ"ג ט"ו. 9 דברים ט"ז ט'. 10 שמות ל"ד כ"ב. 11 במדבר כ"ח כ"ו.  
12 ויקרא כ"ג ט"ו. 13 ויקרא כ"ג ט"ו. 16 שמות י"ב ט"ו. דברים ט"ז ח'. 18 ע"י  
ויקרא כ"ג י"א.

2 מנחות ס"ה ע"א-ס"ו ע"א. פירושי תענית המיוחסים לרנמ"ג ולרש"י י"ז ע"ב. תוספות  
ר"ה ה' ע"א ד"ה אמרה. ילקוט סי' תרמ"ג. 14 ספרא אמור סי' י"ב. מאור עינים א' ג'.  
לקח טוב כ"ט ע"ב. 18 רש"י מנחות ס"ה ע"א.

3-2 א' (ואיזה ... שהיו) שהיו ביתוסים. פ' (והלא ... שהיו) מפני שהיו הצדוקין.  
2 ה' הוצרכו. 3 רנמ"ג המדומה: מינין. 4 א' עצרת אחר: ה' עצרת מאחר: ק' ד'  
עצרת לאחר. 10-4 פ' ה' (שנאמר ... היה) ניטפל להם רבן יוחנן בן זכאי ואמ'  
>ה' אמר< להם <ה' שוטים זו> מנין לכם ולא היו יודעים להביא ראיה מן התורה אלא <ה'  
היה בהן אדם שהחזיר לו דבר חוץ מוקן> אחד שהיה <ה' שהוא> מטפטט כנגדו ואמ'  
<פ' מפני שהיה> משה <ה' רבינון> אוהב <ה' היה>. 14 א' ספירתך (אלא אם כן).  
15 א' (חמשים וששה) חמשה וששה. ועוד בעינן ספירה תלויה ב"ד. 19 פ' ויודע.  
ה' ד' שהעצרת. כל כתבי היד: אינו. 20-19 פ' ה' (אינה ... להם) יום אחד הוא  
אמ' יעשו אותה <ה' לפיכך עמד ותקנה>.

20 להם אחר השבת שיהיו נחים שני ימים זה אחר זה נטפל לו רבן יוחנן בן זכאי ואמר לו אחד עשר יום מחורב דרך הר שעיר עד קדש ברנע ■ משה אוהבן היה מפני מה עכבן במדבר ארבעים שנה אמר לו הרי אתה משחק בנו אמר לו שוטה שבעולם לא תהא תורה שלמה שלנו כשיחה בטלה שלכם. אמר לו בכך אתה מוציאני אמר לו לאו כתוב אחד אומר שבע שבתות תסימות תהיינה וכתוב אחד אומר תספרו ■ חמשים יום הא כיצד חל להיות יום טוב בשבת מניין שבע שבתות חל להיות אחר השבת מניין חמשים יום וכשאתה קורא וספרתם לכם ממחרת השבת ממחרת יום טוב הראשון של פסח. ורבי אליעזר אומר אינו צריך הרי הוא אומר תספר לך מהחל הספירה תחלויה בבית דין יצאתה שבת בראשית שספירתה בכל אדם. רבי יהושע אומר אמרה תורה מנה ימים וקדש ראש חדש מנה ימים וקדש עצרת מה ראש חדש סמוך לביאתו נכר אף עצרת סמוך לביאתה נכרת וכו'. רבי ישמעאל אומר אמרה תורה הבא עמר בפסח והבא שתי הלחם בעצרת מה להלן רגל אף כאן רגל. רבי יהודה בן בתירה אומר נאמר שבת למטה ונאמר שבת למעלה מה להלן רגל ותחלת רגל בסמוך לו אף כאן כן. רבי יהודה אומר כתוב אחד אומר ממחרת השבת וכתוב אחד אומר ממחרת הפסח מה ממחרת שנאמר להלן מאחר יום הראשון של פסח אף ממחרת שנאמר כאן ממחרת יום טוב הראשון של פסח. 35

20 דברים א' ב'. 24 ויקרא כ"ז ט"ו. ■ ויקרא כ"ז ט"ו. 27 דברים ט"ז ט'. 33 ויקרא כ"ז ט"ו.

28 ר"ה ה' ע"א. חגיגה י"ז ע"ב. ירוש' חגיגה ב' ד' (ע"ח ע"ב).

20 ד' לאחר. פ' (שיהיו... ימים) כדי שיהיו להם שני ימים טובים; ה' כדי שיתענגו שני ימים [נ' טובים]. פ' (זה אחר זה). פ' ה' (נטפל לו) קרא עליו >ה' לו<. ה' (רבן יוחנן בן זכאי). פ' ה' (ואמר לו) המקרא הזה. 21 פ' ואם. ה' (רבינו). פ' ה' אוהב את ישראל [ה' היה]. 22 א' לפה אחרון. פ' ארבעים שנה במדבר. א' ה' (הרי... בנו) רבי בכך >ה' ובכך< אתה פוטרני. 23 ה' ולא. 23-35 א' (אמר... פסח) והיינו דאמ' איהותב חנא דשבויעא. 23-25 ה' (אמר... שבתות) אמר לו ובמה אתה פוטרני. אמר לו הכתוב אומר וספרתם לכם ממחרת השבת וגו' יכול לא יהא המנין תלוי אלא לשבתות ת"ל תספרו חמש' יום הא כיצד אירע יום טוב להיות בשבת מנה שבע שבתות. 25-26 ה' מונה. 27-33 פ' (ורבי... כן). 26-27 א' (ע' הערה לשורה 15) ועוד בעינן ספרה תלויה בב"ד. 28 ק' מהחל [חרמש]; ו' תספור לך [מהחל חרמש שבעה שבועות] (מחק) וספרתם לכם [מהחל חרמש] הספירה. 31 ד' (ותחל' רגל). ו' (בן בתירה). 32-33 ד' (אף כאן כן); ק' אף כאן רגל ותחלת רגל בסמוך לו. 25-33 ה' (רבי... פסח) וכשאתה קורא וספרתם לכם ממחרת השבת ממחרת יום הראשון של פסח. 35 פ' (וכו' בתורת כהנים).

### בשבעה לאייר חנכת שור ירושלם ודילא למפסד. מפני שבאו

גוים ונלחמו על ירושלם ולא יכלו לה וסתרו מחומתה יום  
שהתחילו לבנותו עשאוהו יום טוב. בשני מקומות כתוב במגלה הזאת חנכת  
שור ירושלם דילא למפסד. אחד כשעלו ישראל מן הגולה ואחד כשפרצוהו מלכי יון וגדרוהו  
5 בית חשמונאי שנאמר ותשלם כל מלאכת החומה בעשרים וחמשה  
באלול ונומר ואף על פי שנבנתה החומה עדין השערים לא עמדו שכן הוא אומר גם  
עד העת ההיא דלתות לא העמדתי בשערים ואומר הוא יבננו  
ויטללנו ויעמיד דלתותיו מנעליו ובריחיו. ואומר ויפקדו  
השוערים והמשוררים ועושי המלאכה וכשנמרו למנותם אותו היום עשאוהו  
10 יום טוב.

### בארבעת עשר ביה פסחא ועירא דילא למספד ודילא

להתענאה. זו תשובה השיב רבי יהושע את רבי אליעזר שהיה רבי אליעזר אומר  
אבר מן החי טמא אבר מן המת טהור אמר לו רבי יהושע אם אבר מן החי טמא אבר מן  
המת לא יהיה טמא כתוב במגלה תענית פסחא ועירא דילא למספד ואם פסחא ועירא דילא  
5 למספד קל וחמר לפסחא רבא. נמצא פסח שני מן התורה ופסח ראשון מקל וחמר. עוד  
דבר אחד השיבו שרבי אליעזר אומר זכין לקטן ואין זכין לגדול אמר לו רבי יהושע אם  
לקטן זכין קל וחמר לגדול וכמצות פסח גדול כן מצות פסח קטן. ועוד דבר אחר השיבו  
שרבי אליעזר אומר מעשה המת עושין בשבת עד שיכתוב אמר לו רבי יהושע אם בשבת  
אמרת קל וחמר בחול.

5 נחמיה ו' ט"ו (בשנוי נוסחא). ■ נחמיה ו' א'. 7 נחמיה ג' ט"ו. ז' א' (בשנוי נוסחא).

■ עדויות ו' ב'. חולין קכ"ט ע"ב. תוספתא מגלה א' י"א. 8 ב"ב ט' ז'; קנ"ו  
ע"ב-קנ"ז ע"א.

3-1 א' ה' (מפני ... טוב). 10-8 פ' (בשני ... טוב). 5-3 א' (בשני ...  
חשמונאי) ופעמים באייר אחד כשעלו בני הגולה ואחד כשצוהו (1) מלכי יון וחורו וגדרוהו.  
4 ה' (שור). 5 ה' (כל מלאכת). 7-6 א' (שנבנתה ... הוא) שנבנית לא נבנו  
השערים שני. 7 ז' (בשערים) בכ'. 8 ק' (ויטללנו). ד' (דלתותיו). 10-9 א'  
(ועושי ... טוב) והלויים ויעשו את חנוכת העיר.

5-2 א' (ו' ... רבא) קל וחומר בניסן משום פסחא רבא. ■ ק' ד' (זו תשובה)  
זו; ו' וזה. 3 ה' ואבר מן המת. 4-3 ה' (אבר מן ... כתוב) לא כ"ש וק"ו מן המת  
מה אם [ק' ד' מן] החי שהוא טהור אבר הפורש ממנו טמא המת שהוא טמא לא כ"ש  
וכתוב. 5-4 ה' (ואם ... למספד). 5 פ' לפסח גדול. פ' ד' (נמצא ... וחמר).  
9-5 א' (ועוד ... בחול). 6 ה' (ועוד). 6 ה' (השיבו שרבי) השיב ר' יהושע שהיה ר'.  
7 ה' (מכין) אמרת. ה' (כן) כך. 9-7 ק' ד' (ועוד ... בחול). 8-7 ה' (השיבו  
שרבי) השיב ר' יהושע את ר' אליעזר שהיה ר'. 8 ה' (מעשה) צרכי. ו' (ועושין)  
נעשים. ו' בשבת [ובחול]. 9-8 פ' (עד ... אמרת).

בעשרין ותלתא ביה נפקו בני חקרא מירושלם. הוא דכתיב

וילכוד דוד את מצודת ציון היא עיר דוד זה הוא מקום הקראין עכשיו מפני שהיו מצרים לבני ירושלם ולא יכלו לצאת ולבוא מפניהם ביום אלא בלילה יום שיצאו משם עשאוהו יום טוב.

בעשרין ושבעה ביה אתנטילו כלילאי מן ירושלם דילא

למספר. שבימי מלכות יון היו עושין עטרות של ורד ותולין אותן על פתחי בתי עבודה זרה שלהם ועל פתחי החניות ועל פתחי החצרות ושרין בשיר לעבודה זרה וכותבין על קרניו של שור ועל מצחי חמורים אין לבעלי חלק בעליון כשם שהיו הפלשתים עושים שנאמר וחרש לא ימצא וגו' והיתה הפצירה פים למחרשות ולא תים וכשגברה יד בני חשמונאי בטלום יום שבטלום עשאוהו יום טוב.

בארבעת עשר לסיון אחידת מגדל צור. היא קסרי בת אדום

היושבת בין החולות והיא היחה יחד חקועה לישראל בימי יון מפני שלא היו יכולים לכבשה מה שהיו בה גבורים וכשגברה יד בני חשמונאי כבשוה והוציאום משם והושיבוה ישראל יום שכבשוה עשאוהו יום טוב.

2 ש"ב ה' ז'.

■ ש"א י"ג י"ט, כ"א.

2 חשמונאים א' א' ל"ג. 4 חשמונאים א' י"ג נ"א-נ"ב.

4 ב"ר ב' ד'; ט"ז ד'; מ"ד י"ז. ויק"ר י"ג ה'; ט"ן ט'. תנחומא תוריע סי' י"א. פסיקתא

רבתי פ' ל"ג.

1-2 מגלה ו' ע"א. יוחסין ערך אבהו.

1-2 פ' (הוא ... עיר דוד). 2 א' שג'. 3-2 פ' (זה ... עכשיו).

3 ה' הגליין. 4-3 א' (מפני ... בלילה). 3 ה' (מפני). 4 א' ה' וכשגברה מלכות בית חשמונאי הגלו אותן [ה'] ואותו היום שעקרום עשאוהו יום טוב.

1-8 חסר בפ'. 2 ה' (שבימי). ה' יון [נוצחת]. ה' מביאין. 3 ה' (בתי).

2-4 א' של ... ושרין) בפתחי חנויות וחצרות ושרים. 4 ה' לע"א. ■ ה' מצחו של שור ועל מצחו של חמור שאין לבעליהם <ה' להם> חלק באלהי ישראל <ה' בעליון>

כמו. 5-6 ה' פלשתים עושין כמו שג'. 7 א' (יד בני) בית. 8 א' (שבטלום ... טוב) ובטלום.

1 ה' ז'. ה' קיסרי. 1-2 פ' (בת ... יון). 2 ה' שהיתה יושבת. ה'

לישראל יחד <ה' יוחר> רעה. ה' יונים. 2-3 א' (מפני ... גבורים). 3 כ"י

Columbia (וכשגברה יד בני) ומלכי בית. 3-4 פ' (וכשגברה ... ישראל). 3 א' (בני).

4-3 א' (וכבשוה והוציאום) הוציאום. 4 ה' והושיבו ישראל בחוכה. א' (יום ... טוב).

ה' (יום) ואותו היום.



### בַּחֲמִסֶּר בִּיהַ וּבִשְׁתַּת עֶשֶׂר בִּיהַ גִּלּוֹ אֲנָשִׁי בֵּית שֶׁאֵן וְאֲנָשִׁי בַּקְעָתָא.

וּאֵף הֵם הָיוּ לְיִשְׂרָאֵל יַחַד תְּקוּעָה בִּימֵי יוֹן כְּלָפִי הָעֶרְבִים מִפְּנֵי שֶׁלֹּא נִתְחִיבוּ גִלּוֹת בְּרֹאשׁוֹנָה וְלֹא הִגְלָה אוֹתָם לֹא יְהוֹשֻׁעַ בֶּן נֹון וְלֹא דוֹד מֶלֶךְ יִשְׂרָאֵל וְכִיּוֹן שְׁנִיתְחִיבוּ גִלּוֹת תִּקְפָּה יָד בְּנֵי חֲשְׁמוֹנָאִי עֲלֵיהֶם וְהִגְלוּ אוֹתָם יוֹם שֶׁהִגְלוּ אוֹתָם עֲשָׂאוּהוּ יוֹם טוֹב שֶׁשִּׁמְחָה הָיָא לִפְנֵי הַמָּקוֹם שֶׁמִּלְכוּתָם מִסְּתַלְקָת מִן הָעוֹלָם שֶׁנֶּאֱמַר וְעָלוּ מוֹשִׁיעִים בְּהַר צִיּוֹן לִשְׁפּוֹט אֶת הָרַע עֲשׂוֹ וְהִיטָה לִי יְיָ הַמְּלוֹכָה. ה' מֶלֶךְ עוֹלָם וְעַד אֵימָתִי כִּשְׂיֵאבְדוֹ נְוִים מֵאַרְצוֹ וְאוֹמֵר יִתְּמוּ חֲטָאִים מִן הָאָרֶץ. וְנוֹמֵר.

### בַּעֲשָׂרִין וְחֲמִשָּׁה בִּיהַ אֲתַנְטִילוּ דִּימוֹסְנָאִי מִיהוּדָה וּמִירוּשָׁלַם.

אֵלּוּ בְּנֵי אֶפְרַיָּקָא שְׁבָאוּ לְדוֹן בִּימֵי אֶלְסַכְנֶדְרוֹס מוֹקְדוֹן לֵאמֹר אֶרֶץ כְּנַעַן שְׁלֵנוּ הִיא שְׁכֵן כְּתוּב בְּתוֹרַת מֹשֶׁה אֶרֶץ כְּנַעַן לְגִבּוֹלוֹתֶיהָ אֵמַר לָהֶם גְּבִיָּהּ בֶּן פְּסִיסָא שׁוֹמֵר הַבַּיִת לַחֲכָמִים תָּנוּ לִי רִשּׁוֹת וְאַלְךָ וְאֶדוֹן עִמָּם אִם נִצְחָתִים יֵאָמְרוּ תוֹרַתְךָ שֶׁל יִשְׂרָאֵל נִצְחָתָנוּ אִם נִצְחָנוּ תֵּאָמְרוּ לֹא נִצְחָתָם אֲלֵא לְאָדָם הַדְּיוּטִי.

■ עוֹבְדִיָּה כ"א. 7 ע"י תְּהִלִּים י' ט"ו. 8 תְּהִלִּים ק"ד ל"ה.  
■ בַּמְדַּבֵּר ל"ד ב'.

2 כַּפְתּוֹר וּפְרַח פ"ו.  
■ סְנֵהֲדִרִין צ"א ע"א. ב"ר ס"א ז'. יִלְקוּט בְּרַאשִׁית ס"י ק"י. מִדְּרַשׁ הַגְּדוֹל בְּרַאשִׁית ט' כ"ה.

2 פ' (וּאֵף ... הָעֶרְבִים). א' שֶׁנָּם הִיא הִיטָה לְיִשְׂרָאֵל תְּקוּעָה. ה' יִיחַד <ו' יוֹתֵר> רָעָה לְיִשְׂרָאֵל בִּימֵי יוֹנָס. 5-2 א' (כְּלָפִי ... טוֹב) וְכִשְׁנִכְרָה בֵּית חֲשְׁמוֹנָאִי הִגְלוּ אוֹתָן. 3-2 פ' (גִּלּוֹת ... וְכִיּוֹן) בְּרַאשׁוֹנָה לְגִלּוֹת אֲבָל בְּאַחֲרֹנָה. ■ פ' (גִּלּוֹת) גִּלּוֹת. ה' (תִּקְפָּה ... עֲלֵיהֶם) גְּבִיָּהּ יָדָם שֶׁל בֵּית חֲשְׁמוֹנָאִי. ה' (יוֹם שֶׁהִגְלוּ אוֹתָם) וְאוֹתוֹ הַיּוֹם. 8-5 פ' (שִׁמְחָה ... וְנוֹמֵר). 5 א' (הִיא). א' ו' ק' ד' שֶׁמִּלְכוּתָהּ הִרְשָׁעָה. ה' נִעְקְרָתָה. 8-7 א' (וְה' ... וְנוֹמֵר).

3-2 א' (אֵלּוּ ... מֹשֶׁה) שְׁבָאוּ כְּנַעֲנִים לְדוֹן עִם יִשְׂרָאֵל לִפְנֵי אֶלְסַכְנֶדְרוֹס מוֹקְדוֹן וְשְׁתֵּי מִשְׁפְּחוֹת עַמָּהּ מִצְרִיִּים וְיִשְׁמַעְאֲלִיִּים. כְּנַעֲנִים אָמְרוּ כְּתוּב בְּתוֹרָה. 2 צִדָּה לְדֶרֶךְ: אֶפְרַיָּקָה ... אֶלְסַכְנֶדְר. ה' כִּשְׁבָאוּ בְּנֵי יִשְׁמַעְאֵל לְעוֹרֵר עַל יִשְׂרָאֵל עַל הַבְּכֻרָה וְבָאוּ עִמָּהֶם שְׁתֵּי מִשְׁפְּחוֹת רַעוּת כְּנַעֲנִים וּמִצְרִיִּים אָמְרוּ מִי יִלְךְ וְיִדְּוֹן עִמָּהֶם. (אַחֲרֵיהֶם) בְּנֵי יִשְׁמַעְאֵל, וּמִשְׁמִיךְ: כְּנַעֲנִים אָמְרוּ <ו' בָּאוּ בְּנֵי כְּנַעַן וְאָמְרוּ>. 3 ו' בְּתוֹרַתְכֶם: ק' ד' בְּתוֹרָה. 4 א' (חֲזָרוּ לָנוּ אֶת שְׁלֹנֵן). 7-4 א' (אָמַר ... אָמַר) שָׁמַע גְּבִיָּהּ בֶּן פְּסִיסָא שׁוֹמֵר הַבַּיִת וְאָמַר לָהֶם. 7-5 ה' (תָּנוּ ... לָהֶם) אֲנִי אֵלְךָ וְאֶדוֹן עִמָּהֶם. אָמְרוּ לוֹ הִזָּהֵר שֶׁלֹּא תַחְלוּט <ק' תַּחְלוּט> אֶת יִשְׂרָאֵל אָמַר לָהֶם <ו' הִרִי אֲנִי> אֵלְךָ וְאֶדוֹן עִמָּהֶם ■ נִצְחָנוּ אָמְרוּ לָהֶם הַדְּיוּטִי שֶׁבָנוּ נִצְחָתָם. 4 פ' (גְּבִיָּהּ); ו' (תִּמְרִיד); גְּבִיָּהּ. פ' (שׁוֹמֵר הַבַּיִת); ק' ד' שׁוֹעֵר הַבַּיִת. 5 פ' (אֵלְךָ).

<sup>1</sup> *δημοσιῶσαι.*

<sup>2</sup> *ἰδιώτης.*

נתנו לו חכמים רשות הלך ודן עמהן. אמר להם וכי יש גזר דין שמקצתו בטל ומקצתו קים ואם כתוב בתורה ארץ כנען הרי כתוב בתורה ויאמר ארור כנען עבד עבדים יהיה לאחיו עבד שקנה נכסים עבד שג' מי והנכסים של מי ולא דייכם שאכלתם כל השנים תבואתה ואתם צריכים להעלות לנו שכר מכל אותן שנים. אמר להם אלסכנדרוס מה אתם משיבים לו אמרו לו תן לנו זמן עד למחר נתן להם זמן הלכו וישבו בינם לבין עצמם וראו שמתחבין להם עבדים לישראל והניחו את הארץ שזרעו באותה שנה וברחו משם ערב שבת בין השמשות היה יום שברחו עשאוהו יום טוב. אמרו ישמעאלים כתוב בתורה ביום ההוא כרת ה' את אברם ברית לאמר לזרעך נתתי את הארץ הזאת ואנו מזרעו של אברהם שישמעאל בן אברהם ונחלק עמכם. השיב להם גביהא בן פסיסא שומר הבית כתוב בתורה ולבני הפלגשים אשר לאברהם נתן אברהם מתנות וכתוב ויתן אברהם את כל אשר לו ליצחק ברחו להם.

■ בראשית ט' כ"ה. 17 בראשית ט"ז י"ח. 20 בראשית כ"ז ו'. 22 בראשית כ"ה ה'.

10 סנהדרין ק"ה ע"א. מגלה ט"ז ע"א. 17 כפתור ופרח פ"ח ע"א. 143.

7-8 פ' ו' ו' (וכ' ... בתורה) כלום אתם מביאין ראיה אלא מן התורה אף אני לא אביא לכם <ו' איני מביא> ראיה אלא מן התורה. 8 ק' ד' (ואם ... ארץ כנען). 9 א' (הרי). ו' ד' [שנ']. 10-16 א' (עבד ... טוב) ומה שקנה עבד קנה רבו ואני ואתם לאדוננו המלך מיד ברחו להם. 10 ה' למי ונכסים למי. 11-12 ה' (דייכם ... שנים) עוד הלא עשיתם לכם הרבה שנים שלא עבדתם אותנו. 12 פ' ק' ד' אלסכנדרוס. 13 ה' (מה ... לו) תשובה נצחת השיב אתכם אם אתם מחזירין תשובה [ד' הרי] מוטב ואם לאו הרי אתם לו לעבדים. פ' (לו) להם. ה' (עד ... זמן) שלשה ימים. 14-16 ה' (וישבו ... טוב) ולא מצאו תשובה מיד הניחו בתיהם כשהם מלאים שדותיהם כשהם זרועות כרמיהם כשהם נטועות הלכו וברחו להם. תנא אותה שנה יביעת היתה ועשו אותה היום יום טוב. 17-20 פ' (אמרו ... להם) אף בני ישמעאל אמרו אחיכם אנחנו נחלוק עמכם בארץ שכן כתוב בתורת משה אלה תולדות ישמעאל בן אברהם וגו' ואומ' בלדת הגר את ישמעאל לאברהם. אמ'. 18 ו' ד' (נתתי) אתן. 20 א' גביהא. פ' ה' (שומר הבית). (כתוב בתורה) ו' שני: פ' לחכמים תנו לי רשות ואלך ואדון עמהם וכו' ככת' בפרק חלק. והלא אברהם כתבה מתנה לבנו יצחק שני. 21 ק' ד' וכתוב בתורה. 22 פ' (ברחו להם); ו' אב שחלק נכסיו לבניו בחייו יש לאחר מהם רשות על חברו ויצאו כבושות.

אמרו מצריים כתוב בתורה ושאלה אשה משכנתה ומגרת ביתה כלי כסף וכלי זהב החזירו לנו את שלנו. השיב להם גביהא בן פסיסא ארבע מאות ושלשים שנה שנשתעבדו ישראל אצלכם שש מאות אלף רגלי ותנו לכל אחד מהם מאתים זוז בשנה שהם שמנה מאות וששים רבוא מנה לכל אחד ואחד ונחזיר לכם את שלכם יצאו כלם בפחי נפש. בקש אלסכנדרוס מוקדון לעלות לירושלם אמרו לו כותיים שרי יהודה אין מניחין אותך ליכנס לבית קדשי הקדשים שלהם מפני שאתה ערל מה עשה גביהא בן פסיסא עשה שני אנפילאות<sup>2</sup> זהב ונתן בהם שתי אבנים טובות [שהן שוות] חמשת רבוא מנה כסף וכיון שהגיע להר הבית אמר לו אדוני המלך אחיר מנעדיך ואנעלך האנפילאות הללו שהרצפה חלקה משהגיע לבית קדשי הקדשים אמר לו מכאן ולפנים אי אפשר ליכנס אמר לו אני נכנס וכשאצא אשה לך גביהתך אמר לו אם אתה עושה כן רופא אומן תקרא ושכר הרבה תטול. אמרו לא זוז משם עד שהכישו נחש. אמרו לו חכמים עליך הכתוב אומר ישמח אביך ואמך ותגל יולדתך. וכתוב חכם בני ושמח לבי ואשיבה חורפי דבר.

23 שמות ג' כ"ב. 35 משלי כ"ג כ"ה. 36 משלי כ"ז י"א.

28 יוסיפון ב' ה'—ו'.

28—23 חסר בפ' ה' באו המצריים ואמרו מתורתם אנו מביאין עליהם <ו' עליכם> ראיה. שני' ושאלה אשה משכנתה ונו' ששים רבוא אנשים יצאו מאצלנו כלם טעונים כסף וזהב שכן כתוב בתורתם וינצלו את מצרים יתנו לנו כספנו וזהבנו. אמר להם גביהא <ו' גביהה> בן פסיסא כלום אתם מביאי' ראיה אלא מן התורה <נ' אף אני איני מביא לכם ראיה אלא מן התורה> כתוב בתורה ומושב בני ישראל אשר ישבו במצרים שלשים שנה וארבע מאות שנה ששים רבוא היו אבותינו והעבידום בחומר ובלבנים ובכל עבודה חנם בלא שכר ורואו <ק' ד' ראו> כמה שוה פעולתנו לנו <ק' לנו פעולתנו> לכל יום ויום סלע <ק' אחד> לכל אחד ואחד <ק' ד' ביום>. ישבו פילוסופים <ו' פילוסופים><sup>1</sup> וחשבו ולא הגיעו למאת <ו' למאה> שנה עד שהיתה מצרים שלהם והלכו משם <חסר ב'> בבשת פנים. <sup>25</sup> א' <גביהא בן פסיסא> גביהה. 28—36 חסר בפ' ה' ובקש. ק' ד' אלכסנדרוס. <sup>29</sup> ה' <אמרו ... אין> הלכו הכותיים ואמרו לו להזהר שאינך <ו' שאין>. א' <אוחך> לך. ה' <להכנס>. ו' <קדשי> קדש. <sup>29—30</sup> א' <הקדשים ... ערל>. <sup>30</sup> ה' <מה עשה> וכיון שהרגיש. א' <גביהה>. ה' <עשה שני> הלך ועשה לו שתי. ו' <אנפיליות>. ה' <זהב>. א' <ונתן בהם> ובהם. <sup>31—30</sup> א' <שתי ... חמשת>. <sup>31</sup> ה' <שהן ... מנה> ובהם <ו' משתים> רבוא. א' <כסף>. א' <וכיון ... הבית>. א' <אדוני המלך>. <sup>32</sup> ה' <אחיר> שלוף. ו' <אנפיליות> <ו' מפני>. ה' <נלא תחלוק רגלך>. ו' <וכיון שהגיע>. א' <לבית קדשי הקדשים> למקום שאי אפשר ליכנס ממנו ולפנים. <sup>33</sup> ה' <אדוני המלך עד כאן יש לנו רשות להכנס>. ה' <ולפנים אי אפשר> ואילך אין לנו רשות. ק' ד' <להכנס>. ה' <לו הרי>. א' <גביהותיך>. <sup>35</sup> ו' <לו>. ה' <לגביהא בן פסיסא>. <sup>35—36</sup> א' <ישמח ... וכתבי>. <sup>36</sup> ק' ד' <וכתיב> וכתוב.

<sup>1</sup> φιλόσοφοι.

<sup>2</sup> ἐμπίλια

בארבעה בתמוז עדא ספר גזרתא. מפני שהיה כתוב ומונח

לצדוקים ספר גזרות אלו שנסקלין ואלו שנשרפין אלו שנהרגין  
ואלו שנחנקין וכשהיו יושבין ואדם שואל ומראין לו בספר אומר  
להם מנין שזה חייב סקילה וזה חייב שרפה וזה חייב הרגה וזה חייב  
חניקה לא היו יודעין להביא ראיה מן התורה. אמרו להם חכמים  
הלא כתוב על פי התורה אשר יורוך וגו' מלמד שאין  
כותבין הלכות בספר. דבר אחר ספר גזרתא שהיו ביתוסין  
אומרים עין תחת עין שן תחת שן הפיל אדם שן חברו  
יפיל את שנו סמא עין חברו יסמא את עינו יהו שוים כאחד.  
ופרשו השמלה לפני זקני העיר דברים ככתבן.  
וירקה בפניו שתהא רוקקת בפניו. אמרו להם חכמים והלא  
כתוב התורה והמצוה אשר כתבתי להורותם.  
התורה אשר כתבתי והמצוה להורותם. וכתוב ועתה כתבו  
לכם את השירה הזאת ולמדה את בני ישראל  
שימה בפיהם. ולמדה את בני ישראל זה מקרא.  
שימה בפיהם אלו הלכות. יום שבטלוהו עשאוהו יום טוב.

בחמשת עשר באב זמן אעי כהניא ודילא למספד. מפני  
שכשעלתה גולה בראשונה התקינו להם את יום תשעה באב שיהו

6 דברים י"ז י"א. 7 שמות כ"א כ"ד. 8 ויקרא כ"ד כ". 10 דברים כ"ב י"ז.  
11 דברים כ"ה ט'. 12 שמות כ"ד י"ב. 13 דברים ל"א י"ט.

7 מאור עינים פ"א נ'.

1-6 א' שהיו ביתוסין כותבין הלכות בספר ואדם שואל ומראין לו בספר. 1 פ'  
(שהיה) שכך. פ' ומונח [להם]. 2-3 פ' (אלו... שנחנקין) אלו שהן נשרפין אלו שהן  
נהרגין אלו שהן נחנקין. 4 פ' (וכשהיו... בספר) ומי שהוא. ה' כותבין; גרץ:  
יושבין. ה' (ואדם) אדם. ה' (ומראין לו) והולך ורואה <ו' וראה>. 4 ה' [אתם יודעין].  
4-5 פ' (וזה חייב הרגה וזה חייב חניקה). 5 פ' (לא היו) אין. 5-6 פ' (אמרו...  
הלכות) אלא שכתו' ומונח להם ספר גזירות. 6-5 פ' 6-5 א' (אמרו... התורה). 6 א'  
(הלא כתוב) והלא כבר נאמר כי על פי הדברים האלה כתיב בריית ואת ישראל.  
ה' (מלמד). 7 א' (הלכות). ה' [נועד]. ק' ד' (דבר אחר). ה' (ספר גזרתא).  
8 א' (אדם). ה' (שן) שנו של. 9 א' (את). ה' (עין) את עינו של. א' ושניהן שוין.  
10 פ' ד' הדברים. א' (דברים ככתבן) שמלה גמורה. 11 פ' (חכמים). 12 א'  
(כתוב) כבר נאמר. א' (התורה) והתורה. 13 א' (התורה... להורותם). 14 פ'  
(הוא) הו. 15 א' זו. 16 א' (יום... טוב). ה' [ואותו] יום.  
1-9 א' (מפני... ותענית). 2-3 ה' (גולה... למחר) גלות ראשונה לא היו מביאין  
בו <חסר בן> קרבן עצים אמרו חכמים למחר כשעלו.

מביאין בו קרבן עצים אמרו חכמים כשיעלו למחר הגליות הן  
אף הן צריכין התקינו להם את יום חמשה עשר באב שיהו מביאין  
בו קרבן עצים וכל המתנדב קרבן למקדש אפילו עצים פטור  
מן ההספד באותו יום ואינו צריך לומר חטאות ואשמות נדרים וגדבות בכורות  
ומעשרות תודות ושלמים לכך הוא אומר ואינש היהוי עלוהי אעין או  
בכורין והאומר הרי עלי עצים למזבח וגזירין למערכה אסור  
בהספד ותענית. ומהו זמן אעי כהניא זהו שאתה אומר בחמשה  
עשר בו בני זתוא בן יהודה ועמהם בני הכהנים ולויים וגרים  
ונתינים וממזרים ועבדים משחררים וכל מי שטעה בשבטו ובני  
גונבי עלי ובני קוצעי קציעות ובני שלמי הנטופתי.

א

ה

מה הם גונבי עלי גונבים העלי  
והבכורים בימי ירבעם בן נבט שהושיב  
משמרות שלא יעלו ישראל לרגל והיו  
הם מעטרין סליהם בתאנים ועלי עץ  
על כתפיהם מצאו משמרות ואמרו  
להם להיכן אתם הולכין אמרו להם  
למקום פלגין לעשות צמוקין במכתשת  
שלפנינו ובעלי שעל כתפנו הניעו  
לירושלם הורידום והניחום לפני המזבח.  
הסלים לבכורים והגזולות לקיץ המזבח  
על דבר זה נכתב להם שם במגלה  
לדורות.

ומה הן בני גונבי עלי ובני קוצעי קציעות  
אלא פעם אחת גזרה מלכות הרשעה שלא  
יעלו בכורים לירושלם והושיבו מלכי יון  
פרסיותאוי על הדרכים כדרך שהושיב  
ירבעם בן נבט משמרות על התחומין שלא  
לעלות לירושלם ולא היה אדם מעשרת  
השבטים יכול לעלות לירושלם. מה עשו  
הכשרים שבאותו הדור ויראי חטא שבאותו  
הדור הביאו בכורים ונתנום בסלים וחפו אותם  
בקציעות ונטלים את הסלים ועלי על כתפם  
ועולים. כיון שהגיעו אצל המסמר אמרו להם  
לירושלם אתם עולים אמרו להם לאו אלא  
לעשות שני פלחי דבלה במכתשת זו שלפנינו  
ובעלי הלז שעל כתפנו. וכיון שעברו מהם

13 ירוש' תענית ד' ז' (ס"ח ע"ב).

7 ירוש' חגיגה ב' ד' (ע"ח ע"א). ירוש' מגילה א' ו' (נע' ע"ג). ירוש' פסחים ד' א' (ול'  
(ע"ג). תוספות חגיגה י"ז ע"ב ד"ה אלא. יחסי תנאים ואמוראים ערך בר נתן. 9 תענית ד'  
ה'; כ"ח ע"א. 13 תוספתא תענית ד' ז' ח'. תענית כ"ח ע"א.

א' ה' אף הם יהיו צריכין להביא. ה' [חכמים]. 6 ו' מי שמעלה: ק' ד' מי  
שהוא מעלה. א' ה' מאותו הספד של אותו היום. 7-6 פ' (ואינו ... ושלמים).  
7 (לכך) לפי. ה' כל אינש דאיתי. פ' דילהוין. 9-8 ה' (והאומר ... ותענית).  
50-9 פ' (ומה ... היה). 9 א' והו שנינו זמן עצי הכהנים וזה שאו. 10 ק' ד'  
(זתוא) וזתואל; ו' נתנאל. 11-10 ה' כהנים ולוים וישראלים וגרים <ק' ד' גרים>  
ועבדים ונתינים וממזרים. 12 א' (ובני שלמי הנטופתי). ק' ד' שלמי. 14 ק' ד' הרשעה  
[שמר על ישראל]. 18-19 ו' (ולא ... לירושלם). 22 כל כתבי היר (ועלי) והעולם.  
23 ק' ד' (ועולים). ק' ד' למסמר.

<sup>1</sup> Praesidia.



עטרום בסלים והעלו לירושלם. ומה הן בני שלמי הנטופתי אלא פעם אחת מורה מלכות  
הרשעה שמד שלא יביאו עצים למערכה והושיבו מלכי יון פרדסיאות על הדרכים כדרך  
שהושיב ירבעם בן נבט משמרות על החחומין שלא לעלות לירושלם ולא היה אדם אחד  
מעשרת השבטים יכול לעלות לירושלם. מה עשו הכשרים באותו הדור ויראי חטא שבאותו  
30 הדור היו מביאין שני גזירין ועושים אותם כמין סולמות ומניחים אותם על כתפם ועולים.  
כיון שהגיעו אצל אותו המסמר אמרו להם לירושלם אתם עולין אמרו להם לאו אלא להביא  
שתי גזירות מן השבך הזה שלפנינו בסולם הזה שעל כתפנו וכיון שעברו מהם התירו השלבים  
ופרקום והשליכו מעל כתפם ונטלו הגזירין ועלו לירושלם. לפי שמסרו עצמם על המצוות  
35 לכך נכתב להם שם טוב במגלה הזאת וזכר טוב לדורות ועליהם ועל כיוצא בהם נאמר  
זכר צדיק לברכה ועל ירבעם בן נבט וחבריו נאמר ושם רשעים ירקב.  
ומה ראו בני זמא בן יהודה ליטול להם שם טוב וזכר טוב לדורות אלא שכל הרוצה  
ליטול את השם יטול וכשעלו בני הגולה ולא מצאו עצים בלשכה עמדו אלו והתנדבו עצים  
משל עצמם ומסרו אותם לצבור וקברו מהם קרבנות הצבור וכך החנו עמם הנביאים  
40 שביניהם שאפילו הלשכה מלאה עצים ואפילו משל צבור יהיו אלו מתנדבים עצים זמן הזה  
ומביאין כל זמן שירצו ולא יהיה קרבן מתקרב אלא משלהם תחלה שנאמר והגזירות  
הפלגו על קרבן העצים והכהנים והלויים והעם להביא לבית  
אלהינו לבית אבותינו בעתים מזומנים שנה בשנה לבער על  
מזבח ה' אלהינו ככתוב בתורה. דבר אחר שנתמנו להם  
45 הרבים ועשאוהו יום טוב. ואמר כי עזרא הכין את לבבו לדרוש  
את תורת ה' אלהינו ולעשות וללמד בישראל חק ומשפט ואתן  
הימים אסורים בהספד ובתענית בין משחרב הבית בין שלא חרב רבי יוסי אומר משחרב  
הבית מתרין מפני שאכל הוא להם. אמר רבי אלעזר בר צדוק אני הייתי מכני בניו של  
מנאה בן בנימן ואירע חשעה באב להיות בשבת ודחינוהו עד לאחר השבת והתענינו בו  
50 ולא השלמנוהו מפני שיום טוב שלנו היה.

36 משלי י' ז'. 41 נחמיה י' ל"ה. (בשנוי נוסחא). 45 עזרא ז' י' (בשנוי נוסחא).

27 ילקוט משלי ס' תחקמו'. 37 תוספתא תענית ד' ה'. תענית כ"ח ע"א. ירוש' תענית ד' ו' (ס"ח  
ע"ב). ירוש' מגלה א' ו' (ע' ע"ג). ירוש' שקלים ד' א' (מ"ז ע"ד). 44 תוספתא תענית ד' ו'.  
46 ר"ה י"ט ע"ב. ירוש' שקלים ד' א' (מ"א ע"ד). 47 תענית י"ב ע"א. ערובין מ"א ע"א.  
ירוש' מגלה א' ו' (ע' ע"ג). ירוש' תענית ד' ו' (ס"ח ע"ב). יחסי תנאים ואמוראים ערך בר  
נתן. ראש פסחים ד' א'. יוחסין ערך אליעזר בן יעקב. אור זרוע ב' ס' ת"ד.

27 ו' (והעלו) והביאום. ק' ד' סלמי. 29 ד' (שהושיב) שעשה; ק' שעשה  
נ"א שהושיב. ו' (על החחומין). 30 ק' ד' (באותו הדור). 32 ק' ד' שבאו  
לאותו. 33 ק' ד' (שתי). ו' (התירו השלבים) השליכו. 34 ו' (הגזירין)  
הגזרין. 36 ד' (וחבריו); נתוסף בן' ע"י סופר שני. 37-44 א' בני זמא בן יהודה  
למה נכתבו כשעלו בני הגולה לא היה להם עצים בלשכה התנדבו בני זמא עצים ומסרום  
לצבור התקינו שאע"פ שהלשכה מלאה עצים התנדבו עצים למערכה כל זמן שאינן.  
37 ו' נתנאל; ק' ד' וחואל. 43 ד' ולבית אבותינו. 44-45 ה' (דבר ... טוב)  
אחרי חק ומשפט. שורה. 46 ה' (שנתמנו להם) שהסכימו. 45 א' ועשאו;  
ק' ועשו אותם; ו' ד' ועשו אותו. 45-48 א' (ואמר ... להם). 46 ק' ד' בתורה.  
כ' ד' (אלהינו). 49 א' מנאב. (ואירע) וחל. ו' ד' (ודחינוהו ... השבת).  
א' (ועד). 49-50 א' והיו מתעניין ולא משלימין מפני שהיו מימים טובים שלהן.

### בעשרין וארבעה ביה תבנא לדיננא. בימי מלכות יון היו דנין

בדיני הגוים וכשגברה ידם של בית חשמונאי בטלום חזרו לדרון  
בדיני ישראל ואותו היום שבטלום עשאוהו יום טוב. שהיו הצדוקין  
דנין בדיניהם לאמר הבת יורשת עם בת הבן אמר להם רבן יוחנן בן זכאי מנין לכם ולא  
היו יודעים להביא ראיה מן התורה אלא אחד שהיה מפטט כנגדו ואומר לו אם בת הבן  
הבאה מחמת אביה הבא מכחי יורשתי בת הבאה מכחי לא כל שכן. קרא לו רבן יוחנן  
בן זכאי את המקרא הזה ואלה בני שעיר החרי יושבי הארץ לוטן  
שובל וצבעון וענה וכחוב אחד ואמר הוא ענה אשר מצא את הימים  
במדבר ברעותו את החמורים לצבעון אביו אלא מלמד שבא שבעון  
על אמו והוליד ממנה ענה. אמר לו הרי אתה משחק בנו אמר לו שוטה ולא יהו דברי תורה  
שלנו כשיהא בטלה שלכם אמר לו בכך אתה מוציאני אמר לו ומה בת בני שכן יפה כחה  
במקום האחים תאמר בבתי שכן הורע כחה במקום האחין דין הוא שלא תירשני יום שנצחום  
עשאוהו יום טוב.

### בארבעה באלול חנכת שור ירושלם ודילא למספד. שסתרואו

גוים וגברה ידם של ישראל ובנאווהו שכן הוא אומר ותשלם החומה  
בעשרים וחמשה באלול ואף על פי שנבנתה החומה עדין השערים לא נבנו שכן

7 בראשית ל"ו כ"ז. 8 בראשית ל"ו כ"ד.

2 נחמיה ו' ט"ו.

3 ב"ב קט"ו ע"ב-קט"ז ע"א. רש"י שם. חוספתא ידים ב' כ'. ירוש' ב"ב ח' א' (ט"ז ע"א).  
שאלתות ס' קליה. ילקוט בראשית ס' ק"מ. ילקוט במדבר ס' תשע"ד. מדרש הגדול  
בראשית ס' תקמ"ג. 7 פסחים נ"ד ס"א.

3-1 פ' (בימי ... טוב). 1 א' (היו) שהיו. 2 א' (הגוים) גרים. א' (ידם של)  
מלכותם: ק' ד' יד. א' (בטלום): ק' ד' ובטלום. ה' (חזרו לדרון) והיו דנין. 3 א'  
(ואותו ... טוב). 2-3 ה', וכשגברה ... טוב' בשורה 12-13, במקום 'יום ... טוב'. 4-3 ה'  
(שהיו ... יורשת) מפני שהצדוקים אומרים תירש הבת. 3-13 א' (שהיו ... טוב).  
4 ק' ד' (בת). ה' נטפל להם רבן יוחנן בן זכאי [אמר להם שוטים זו <ו'> זה].  
5 ה' (היו ... אלא) היה בהם אחד שהחזיר לו דבר חוץ מזקן. 6-5 ה' (לו ... בת)  
ומה בת בני הבאה מכח כחי תירשני בתי. 6-7 פ' (שכן נשתיירשני). 7-6 ה' (לו ...  
את) עליו. 7-8 פ' (ואלה ... אומר). 7 ק' (ואלה) אלו: ד' אלה. 9-10 פ'  
(אלא ... ענה). 10 ק' (ממנה) את. ה' ר' ובכך אתה פוטרני. ה' (ולא ... תורה)  
שבעולם לא <ק' ד' ולא> תהא תורה שלימה. 11 ה' פוטרני. 11-12 פ' (ומה ...  
תירשני) לאו אמי' לו שם אמרת בבת הבן שייפה כחה לחלוק עם הבנים תאמר בבת שלא יפה  
כחה לחלוק עם הבנים הואיל ואין כחה יפה לחלוק עם הבנים לא תירשני. 11 ה' ומה בני  
שכן יפה כחו. 12-13 ה' (יום ... טוב) וכשגברה ... טוב. שורה 2-3.  
5-1 א' (שסתרואו ... המלאכה). 15-1 פ' (שסתרואו ... טוב) מפני שסתרואו  
אותו גוים יום שהתחילו לבנותו עשאוהו יום טוב. 3 ק' לאלול.

הוא אומר הוא יבננו ויטל לנו ואומר ויפקדו השוערים והמשררים  
 5 ועושי המלאכה שאין מוסיפין על העיר ועל העורות אלא במלך ובנביא ובכהן  
 גדול ובאורים ותומים ובסנהדרין של שבעים ואחד ובשתי תורות ובשיר שנאמר והתורה  
 השנית ההולכת למאלו אני אחריה ובית דין מורדין והולכין אחריהן  
 שנאמר וילך אחריהם הושעיה וחצי שרי יהודה ונומר הפנימית נאכלת  
 והחיצונה נשרפת ואם לא נתקדשה בכל אלו הנכנס לשם אינו חיב. אבא שאול אומר שתי  
 10 בצעין היו בחר המשחה אחת למעלה ואחת למטה התחונה נתקדשה בכל אלו והעליונה  
 לא נתקדשה אלא בבני הגולה שלא במלך ושלא באורים ותומים. התחונה שהיתה קדושה  
 גמורה חברים ועמי הארץ נכנסין לשם ואין אוכלין ■ קדשים קלים לא כל שכן מעשר  
 שני העליונה חברים נכנסין לשם ואין אוכלין ■ לא קדשים קלים ולא מעשר שני אלא למה  
 לא קדשה מפני שהיא תרפה של ירושלם ולשם היו מוציאין כל תרפות של ירושלם  
 15 וכשגמרו לבנותו אותו היום עשאוהו יום טוב.

### בשיבסר ביה נפקו רומאי מן ירושלם. מפני שהיו מצרין לבני

ירושלם ולא יכלו לצאת ולבוא מפניהם ביום אלא בלילה ובמה היו מצרים  
 להם מלכי יון היו מושיבין קסטריאות<sup>1</sup> בעירות להיות מענין את  
 הכלות ואחר כך היו נשואות לבעליהן ומנעו את ישראל שלא  
 5 לשמח עם נשותיהם לקים מה שנאמר אשה תארש ואיש  
 אחר ישכבנה ולא היה אדם מבקש לישא אשה מפני

4 נחמיה ג' ט"ז. ד' א' (בשנויי נוסחאות). ■ נחמיה י"ב ל"ח. ■ נחמיה י"ב ל"ב.  
 5 דברים כ"ח ל'.

6 תוספתא סנהדרין ג' ד'. סנהדרין א' ה'. שבועות ב' ב'. סנהדרין י"ד ע"ב. סוטה מ"ח  
 ע"א. ■ שבועות ט"ז ע"א. ירוש' סנהדרין א' ה' י"ט ע"ב).  
 3 בית המדרש ו' א'-ג'. רש"י תענית כ"ג ע"א.

6-5 א' (ובנביא ... שנאמר) ונביא וכהן גדול וסנהדרין של שבעים ואחד ושתי תורות ושיר  
 ותורה. 7 ק' ד' מידרין. 15-7 א' (והולכין ... טוב) אחריה לפיכך דלא למספד.  
 10 ו' (בצעין) מקומות: ק' ד' בצים. 11 ו' ד' (בבני) בני. ו' ק' (התחונה) העליונה.  
 ה' (שהיתה) שלא היתה. 13 ו' (העליונה); ק' התחונה; ד' תחונה. 15 ו' (ואותו היום).

2-1 א' (מפני ... בלילה). 2 ו' (אלא) ולא. 14-2 פ' (ובמה ... שבטלוס)  
 יום שיצאו משם. 5-2 א' (ובמה ... לקים) בימי מלכות יון קופנאות בעיירות לענות  
 הבתולות לענות. 3 ה' (היו) ו' קסטריאות. 6 ו' ד' (ישכבנה) ישגלנה.  
 7-6 א' (ולא ... הקסטריאות).

<sup>1</sup> συνέδριον.

<sup>2</sup> castra.

הקסטריאות חזרו מכניסין אותן בחשאי שנאמר והשבתי מהם קול ששון וקול שמחה קול חתן וקול כלה קול רחים ואור נר וכשהיו שומעין קול רחים בבורני היו אומרים שבע הבן שבע הבן וכשהיו רואים אור נר בבורר חיל היו אומרים משה שם משה שם. ובת אחת היתה למתתיהו בן יוחנן הכהן הגדול וכשהגיע זמנה לינשא בא הקסטריני' לטמאה ולא הניחו אותו וקנאו מתתיהו ובניו וגברה ידם על מלכות יון ונמסרו בידן והרגום ואת היום שבטלום עשאוהו יום טוב.

בעשרין ותרין ביה תבו לקטלא משמדיא. מפני שהיו גוים

שרויים בארץ ישראל ולא יכלו ישראל לשלח יד ברשעים שבהם עד שיצאו משם וכיון שיצאו משם המתינו להם שלשה ימים אם יעשו תשובה כשראו שאין עושין תשובה נמנו עליהם והרגום יום שהרגום עשאוהו יום טוב. אמר רבי אליעזר בן יעקב שמעתי שבית דין מלקין והורגין שלא מן התורה דבית לוי אמר רבי שמעון שמעתי שבית דין עונשין ממון ומכים שלא מן התורה לא מפני שכתוב בתורה אלא משום שנאמר ובערת הרע מקרבך. ומעשה באחד שהטיח באשתו תחת התאנה והלקוהו בית דין וכי חייב היה אלא שהיתה השעה צריכה לכך כדי שילמדו אחרים מפני שנהנו מנהג זנות. שוב מעשה באחד שרכב על הסוס סוס והביאוהו לבית דין וסקלוהו וכי חייב היה אלא שהיתה השעה צריכה לכך. שמעון בן שטח תלה שנים נשים באשקלון וכי חיבות הרגה ותליה היו אלא שהיתה השעה צריכה לכך כדי שילמדו ממנו וכל ישראל ישמעו וייראו.

7 ע' ירמיהו ו' ל'ד. כ"ה י'.

7 דברים כ"א כ"א. 12 דברים כ"א כ"א.

■ סנהדרין ל"ב ע"ב. רש"י ותוספות שם. ירוש' כתובות א' ה' (כ"ח ע"ג).

■ סנהדרין ד' ד'. מ"ז ע"א. יבמות צ' ע"ב. ירוש' חגיגה ב' ב' (ע"ח ע"ב). ספרי תצא ס' רכ"א.

7 ק' ד' הקסטריאות. ק' ומכניסין. א' (אותן). 14-7 א' לקיים מה שג' והשבתי כל משלשה חנה חדשה ושבתה קול מנוסת בבורני משטה משטה שם אור הנר בבורר חיל שבע הבן שבע הבן ויש אומ' ישוע הבן נוטלו בימי יון והיו מתאווין ואו' לשבת פת למועד ושבת יין. 8 ק' ד' קול שמחה... קול כלה. 10 ק' הנר. ד' (בבורר) בכל יד; ו' בבליד. 12 ו' כהן גדול. ק' ד' להנשא. 5-1 א' (מפני... טוב). 2 ה' היו ישראל יכולין. 3 ה' (וכיון שיצאו משם). ■ ה' (כשראו שאין עושין) ולא עשו כיון שראו שלא עשו. ה' ואותו היום. 12-5 פ' (אמר... וייראו). 5 ו' (אליעזר בן יעקב) שמעון. א' (שמעתי). 6-5 א' ומלקין והורגין: ק' ד' מכין ועונשין. 12-6 א' (דבית... וייראו). 6 ו' כבית. ■ ק' באדם אחד. ק' ד' (והולכיהו לב'ד). ק' ד' (בית דין). ■ ק' שנהג בה. קלמור: הסוס [בימי <יבמות: בשני> יונים]. 10 ק' ד' כדי שילמדו אחרות.

1 השוה קסטריאות = castra.

בתלתא בתשרי בטילת אדכרתא מן שטריא. מפני שגורה מלכות יון הרשעה שמד על ישראל ואמרו להם כפרו במלכות שמים ואמרו אין לנו חלק באלהי ישראל ולא היו מזכירין שם שמים בפיהם. וכשתקפה יד בית חשמונאי התקינו שיהו כותבין שם שמים בשטרות וכך היו כותבין בשנת כך וכך ליוחנן כהן גדול שהוא כהן לאל עליון וכששמעו חכמים בדבר אמרו וכי מזכירין שם שמים בשטרות למחר זה פורע את חובו וקורע את שטרו ונמצא שם שמים מוטל באשפה ובטלום ואותו היום עשאוהו יום טוב.

בעשרין ותלתא למרחשון אסתתר סוריגא מן עזרתא. מפני שבנו שם גוים מקום והעמידו עליו את הזונות וכשתקפה יד בית חשמונאי נטלוהו מהן וסתרוהו ומצאו שם אבנים טובות ונמנו עליהן וגנו אותן והן מנחות עד היום הזה עד שיבוא אליהו ויעיד עליהן **אם** טמאות הן אם טהורות יום שסתרוהו עשאוהו יום טוב.

1 ר'ה י"ח ע"ב. אור זרוע ב' ס' רנ"ו. מאור עינים ד' כ"ה. תוספות ב"ב קס"ב ע"א ד"ה לפי.

3 חשמונאים א' ד' מ"ד-מ"ו. מדות א' ו'.

9-1 א' בימי מלכות יון היו כותבין בשטרות שלא יהיה חלק לשונאי ישראל בעולם הבא וכשנברה עליהן מלכות בית חשמונאי כותבין בשנת כך וכך לכהן גדול שהוא כהן לאל עליון כשראו ב'ד שאדם נוטל שטרו כשהוא פרוע חורקו לאור או לאשפה תקנו שלא יכתב **■** בשטרות. 1 ה' שפעם אחת גורה: צדה לדרך: שבימי אלסכנדר גור. 2 ק' ד' (יון). 3-2 ה' (כפרו ... לנו) אין לכם. 3 פ' באלינו שבשמים. 4 ה' וכשנברו ידי <חסר בק' ד' > בית. ה' [ונצחים]. פ' נטלוהו מהן והיו. 5 ה' [ואפילו] בשטרות. 6 פ' (דהוא כהן): צדה לדרך: הוא כהן; ה' שהוא שמש. 6-8 פ' (וכששמעו ... היום) אמרו חכמים ו'ל אפשר שיכתב **■** שמים בשטרות נמנו עליהם וגנום יום שגנום. **■** ק' ד' עשו אותו.

6-1 א' וכשנברו בית חשמונאי הוציאו משם. 4-2 ה' (שם ... והן) גוים מקום בעורה והיו מעמידין בחוכו אבנים טובות שהיו. 3 גרץ: אבנים טמאות. 4-3 פ' (ונמנו ... אותן); ה' אחרי 'טהורות' שורה 5. **■** ה' (עד היום הזה). 5 ה' והן אם טהורות) ואם טהורות הן. ה' (שסתרוהו) שגנום.



בעשרין וחמשא ביה אחדית שור שמרון. ומה היא אחידת שמרון שורא מפני שכשעלתה גלות בראשונה הלכו להם למטלית של כותיים ולא הניחום באו לסיבסטי וישבוה והקיפיה ערי חומה ונסמכו להם עיירות הרבה והיו קורין להן ערי נברכתא.

בעשרין ושבעה ביה תבת סלתא למסק על מדבחא. מפני

שהיו הצדוקין אומרין אוכלין מנחת בהמה אמר להם רבן יוחנן בן זכאי מנין לכם ולא היו יודעין להביא ראיה מן התורה אלא אחד שהיה מפטפט כנגדו ואומר מפני שהיה משה אוהב את אהרן אמר אל יאכל בשר לבדו אלא יאכל סלת ובשר כאדם שהוא אומר לחברו הילך בשר הילך רכיך. קרא לו רבן יוחנן בן זכאי ויבאו אילמה ושם שתיים עשרה עינות מים ושבעים תמרים אמר לו מה ענין זה אצל זה אמר לו שוטה ולא תהא תורה שלמה שלנו כשיחה בטלה שלך והלא כבר נאמר יהיה עולה ליי ומנחתם ונסכיהם לריח ניחח אשה לה.<sup>10</sup>

7 שמות ט"ו כ"ז. 9 ויקרא כ"ג י"ח (בשנויי גוססאות).

2-1 א' כשעלו בני ישראל מן הגולה לא רצו לישב במטלית. 2 פ' שומרון רבה. ה' ראשונה. פ' (הלכו להם) באו. ה' נון. 3 א' (ולא הניחום) אלא. פ' הניחו. א' לסיבסטיא; פ' ה' לים בוסטי. פ' ושבוה; ה' וישבו אותה. א' (והקיפיה ערי חומה) ועשו שם חומה בצורה. 4 פ' ה' (להם) לה. ה' (הרבה) רבות מישראל <ן' בישראל>. א' (והיו ... נברכתא) ומלאו כל עיר נרבונא. פ' (להן) לה; ה' אותה.

6-1 א' (מפני ... אומר) אמרו ביתוסין לרבן יוחנן בן זכאי אוהב משה לאהרן שנתן לו סלת ובהמות משל לאדם שא'. 2 ה' (אומרין). ה' נטפל. 3 ה' זכאי נאמר להם <ק' ד' שוטים> זון. ה' (היו ... אלא) היה בהם אחד שיחיד <ק' ד' שהחזיר> לו דבר חוץ מקון. 4 ה' נאחיון. 5 ה' (אל) לא. פ' ה' סלת לבדה. 6 פ' (לחברו הילך בשר). ה' הילך רכיך הילך בשר הילך רכיך הילך בשר. א' (קרא ... זכאי) אמ' לו; ה' קרא עליו המקרא הזה. 7 א' (נהייתוסין). ה' (מה) ... זה) הרי <ה' ר'> אחת משחק בנו. פ' (שוטה). ה' (שבעולם). 8-9 א' (ולא ... שלמה) לא יהיו דברי תורה. 9 א' ה' (שלך) שלכם. פ' ה' (והלא כבר נאמר) אמ' לו בכך <ן' ובכך> ק' ד' ר' ובכך> אחת מוציאני <ה' פוטרני> אמ' לו לאו הרי הוא <ק' אלא הכתוב> <ן' ד' אמ' לו הכתוב> אומ' נפ' יהיה עולה ליי ומנחתם ונסכיהם <ן' ד' לריח ניחוח אשה לה> ק' אשה ריח ניחח ליי. 10-9 א' (יהיה עולה ליי) ומנחתם ונסכיהם אשה ריח ניחוח ליי.

בתלתא בכסלו אתנטילו סימאותאי מן דרתא. מפני שבנו  
שם גוים סימאותא וכשגברה יד בית חשמנאי בטלום והוציאו  
משם יום שבטלום עשאוהו יום טוב.

בשבועה ביה יום טב. יום שמת הרודוס מפני שהיה הרודוס  
שונא את ישראל את החכמה ששמחה היא לפני המקום כשהרשעים מסתלקין מן  
העולם שנאמר וגם יד יי היתה במ להומם וגומר וכתוב ויהי כאשר תמו  
כל אנשי המלחמה למות מקרב העם וכתוב וידבר ה' אלי לאמר  
וכן הוא אומר איש טוב זה ואל בשורה טובה יבא ואומר ויצו  
המלך את בניהו בן יהודיע ויפגע בו וימיתו וגומר ואותו היום שמת  
הרודוס עשאוהו יום טוב.

בעשרין וחד ביה יום הר גרזים דילא למספד. יום ששאלו  
הכותיים את בית המקדש מאלסכנדרוס מוקדון ואמרו לו מחר  
לנו חמשה כורים ארץ בהר המוריה נתן להם כשבאו יצאו יושבי  
ירושלם ודחפום במקלות והודיעו את שמעון הצדיק לבש בגדי

■ דברים ב' ט"ז, ט"ז. 4 דברים ב' י"ז. 5 ש' ב' י"ח כ"ז. מ' א' ב' מ' (בשנוי נוסחא).

1 יוסף בן מתתיהו, מלחמות א' סי' תר"ס. תוספתא סנהדרין י"ד י'.  
1 יומא ס"ט ע"א. כפתור ופרח פ"ה, עמ' 59. מאור עינים ד' כ"א, כ"ב. יוסף בן מתתיהו,  
עתיקות י"א, סי' שכ"ו ואילך. יוסיפון ב' ו'.

3-1 א' (מפני ... טוב) בימי מלכות יון עשו סמותא בעזרה וכשגברה בית חשמנאי  
הוציאום וכן הוא אומר ואת מסד השבת אשר בנו בבית. 2 ה' (שם גוים סימאותא)  
הגוים סימאות [ק' ד' סימאות] בעזרה. 3-2 פ' (וכשגברה ... משם). ■ ה'  
ואותו היום. פ' שנטלוהו.

1 א' (יומא: י' (יום). פ' הדורוס: א' ה' הודורוס. 2-1 א' (מפני ... החכמים)  
רצחן של תלמידי חכמים. 2 ה' (את ישראל). 7-2 פ' (ששמחה ... טוב). 3 א'  
שנאמר [באבוד רשעים רנה. ונא']. 7-3 א' (וגומר ... טוב). 6 כל כתבי היד:  
הורודוס.

3-1 א' (יום ... המוריה) שבאו כותיים ואמרו לאלסכנדרוס מוקדון המשמרין שבהר  
המוריה תנם לנו. 1 ה' (ששאלו) שבקשו. 2 ה' (המקדש) אלהינו. ק' ד' מאלסכנדרוס.  
ה' [להחריבן]. 3-2 פ' (ואמרו ... המוריה). 3 (נתן) ונתן. 4-3 (כשבאו ...  
במקלות) פ' באו ישראל: ה' וכאו. 4 א' (הודיעו את) עד שהגיעו לאנפטרם הביאו  
עליהן אלסכנדרוס מוקדון שמע. ה' (מה עשה). 5-4 א' (לבש ... בולייטין) ונהג עמו  
אלף בולייטין מירושלם.

כהנה ונתעטף בגדי כהנה ויקירי ירושלם עמו ואלף בולייטין  
מכסין בלבנים ופרחי כהנה מקישין בכלי שרת וכשהם מהלכים  
בהרים ראו אבוקות של אור אמר המלך מה זה אמרו לו המסורות  
הם הם יהודאין שמרדו בכ כיון שהגיעו לאנטיפטרס זרחה החמה  
הגיעו למשמר הראשון אמרו להם מי אתם אמרו להם אנו אנשי  
ירושלם ובאנו להקביל את פני המלך כיון שראה אלסכנדרוס  
מוקדון את שמעון הצדיק ירד ממרכבתו והשתחוה לו אמרו לו  
לזה אתה משתחוה והלא בן אדם הוא אמר להם דיוקנו של זה  
אני רואה כשארד למלחמה ונוצח. אמר לו מה אתה מבקש. אמר  
לו בית שאנו מתפללין בו על מלכותך התעוך גוים ונתתו להם.  
אמר לו מי הטעוני אמר לו הן הן הכותיים שעומדים לפניך. אמר  
לו הרי הם מסורים בידכם. נקבום בעקביהם ותלאום בזנבי  
סוסייהם וגררום על הקוצים ועל הברקונים עד שהגיעו להר  
גרזים כיון שהגיעו להר גרזים חרשוהו וזרעוהו כרשינין כדרך  
שחשבו לעשות לבית המקדש יום שעשו כן עשאוהו יום טוב.

10 ויק' י"ג ה'.

6-5 פ' (ונתעטף ... שרת) ויצאו לפניו הוא וכל גדולי ירוש'. 6 א' (בלבנים  
ופרחי) ואלף פרחי. 7 ו' (מקישין) מכישין; א' מלובשין. 7-6 ה' (וכשהם ...  
זה) ואבוקות של אור דולקות לפניהם כל הלילה כלה הללו מהלכין מצד זה  
והללו מהלכין מצד זה אמר להם מי הללו. 7-6 א' (וכשהם ... של) ואבוקות.  
8-7 א' (אמר ... החמה) בידם. 8 ה' (הם הם יהודאין) הללו היהודים. 9 פ' (כיון  
שהגיעו) הגיעו. 9 ה' לאנטיפטרס זרחה [להם]. 11-9 פ' (הגיעו ... מוקדון) ראה.  
9 ה' הראשון [נפגעו זה בזה]. 11 א' (להם) לו. 11-10 א' (כיון ... והשתחוה לו)  
הגיעו לפני אלסכנדרוס כשראה אלסכנדרוס את ר' שמעון נשתחח לפניו על היד.  
10 ק' ד' אלסכנדרוס. 11 פ' (ירד) שהוא לובש בגדי כהונה נפל. 12-10 א'  
(לזה ... טוב) עבדיו אדונו לזה תשתחוה אמ' להם דמות דיוקנו משחת לפני במלחמה  
ומוציאני לשלום מיד נתנו חדין ברנלי הכותיים וגררום ונתן הר גרזים שהיה בית תפלהם  
ביר ישראל וחרשוהו וזרעוהו מלח. 12 ה' (לזה ... הוא) מלך גדול שכמותך > ק'  
ד' כמותך < ישתחוה ליהודי זה. 13 פ' (דיוקנו) בדמותו. 13 ק' (כשארד); 14 ו' ד' כשאני  
יורד. 14-13 ה' (לו ... שאנו) להם למה באתם אמרו מקום שאנחנו. 14 ה' (בו על)  
עליך ועל. 15 ה' (שלא תחרב). 16 ק' ד' יתעוך. 16 ה' הללו. 16 ק' ד' ותתנו. 16 א' כל כתבי היד  
(לו) להם. 16 ה' (מי ... הן) ומי הם הללו אמרו לו הללו. 16 פ' (הכותיים שעומדים לפניך)  
כותיים. 16 ה' (לו) להם. 16 פ' (הם ... בעקביהם) נתונים לך נקב את נקביהם. 16 ה'  
(מה עשה להם). 17-16 כפתור ופרח (נקבום ... סוסייהם) מיד נתנו סכים ברנליהם.  
17 פ' אחרי סוסיים. 16 ה' והיו מגררים אותם. 16 פ' (שהגיעו להר) הר. 18 ו' ד' (כיון ...  
גרזים). 18 פ' (שהגיעו [שם] להר. 19 פ' (כרשינין). 19 ה' (שחשבו) שבקשו. 19 ו' (לבית)  
את בית. 19 ה' (המקדש) אלהינו.

<sup>1</sup> βουλευταί.

<sup>2</sup> δυνάμεις.

## בעשרין וחמשה ביה חנכתא תמניא יומין דילא למספר בהון.

שכשנכנסו יונים להיכל טמאו כל השמינים שבהיכל וכשגברה יד בית חשמונאי ונצחום בדקו ולא מצאו אלא פך אחד שהיה מונח בחותמו של כהן גדול שלא נטמא ולא היה בו להדליק אלא יום אחד ונעשה בו נס והדליקו ממנו שמנה ימים לשנה אחרת קבעום שמנה ימים טובים. <sup>5</sup> ומה ראו לעשות חנכה שמנה ימים והלא חנכה שעשה משה במדבר לא עשה אלא שבעת ימים שנאמר ומפתח אהל מועד לא תצאו שבעת ימים וגומר ואומר ויהי המקריב ביום הראשון את קרבנו וגומר ובשביעי הקריב אפרים וכן מצינו בחנכה שעשה שלמה שלא עשאה אלא שבעת ימים שנאמר כי חנכת המזבח עשו שבעת ימים והחג שבעת ימים מה ראו לעשות חנכה זו שמנה ימים אלא בימי מלכות יון נכנסו בני חשמונאי להיכל ובנו את המזבח וסדוהו בסיד וכל שבעת הימים היו מתקנים בכלי שרת. חנכת בית חשמונאי לדורות ולמה היא נוהגת לדורות אלא שעשאוהו בצאתם מצרה לרוחה ואמרו בה הלל והודאה והדליקו בה נרות בטהרה לפי שנכנסו יונים בהיכל <sup>10</sup> וטמאו כל הכלים ולא היה במה להדליק וכשגברה יד בית חשמונאי הביאו שבעה שפודי ברזל וחפום בבעץ והתחילו

6 ויקרא ח' ל'ג. 7 במדבר ו' י"ב. 8 במדבר ו' מ"ח (בשנויי נוסחאות). 9 דה"ב ו' ט'.

■ שבת כ"א ע"ב. שאילתות עמ' ל"ח. אור זרוע ב' ס' שכ"א. מגלת בני חשמונאי עמ' 70-78. הלכות גדולות הוצ' הילדסהיימר עמ' 83. 14 חשמונאים א' ד' נ"ט. מס' סופרים כ"ט.

2-5 פ' (שכשנכנסו ... ימים) מפני שטמאו גוים את בית המקדש וכשחקפה מלכות בית חשמונאי בדקוהו ומצאו בו שמן טהור והדליקו בו את הנרות כל אותן ימים שהדליקו בהם את הנרות עשאוהו יום טוב. <sup>2</sup> ק' ד' שכשנכנסו. ה' (יונים) גוים. 2-4 א' (השמינים ... אחד) הכלים ולא היה שמן במה להדליק וכשנברו מלכות בית חשמונאי בדקו ולא מצאו פך אחד בחותמו של כהן גדול. <sup>4</sup> י' (אלא). 4-13 א' (ממנו ... שרת) ממנו עד שמנה ימים בימים הראשונים חנוכת משה זאת חנוכת המזבח. משלמה ואילך חנוכת משה (!) וחנוכתו שנ' כי חנוכת המזבח שבעת ימים ושמונה. כשנטל בית הלבנון ומצאו מזבח טהור ותקנוהו כל שמנה וכלי שרת ולכך נוהגת שמונה והיתה חנכת המזבח. 5-7 פ' (במדבר ... ואמר) אינה אלא שבעה שנ'. 8-9 פ' (וכן ... ימים) והלא חנכה שעשה שלמה אינה אלא שבעה. <sup>10</sup> ה' (מה) ומה. <sup>11</sup> פ' (חנוכה). פ' (ימים). פ' (מלכות). ק' ד' (בני) בית. 12-18 פ' (להיכל ... להדליק) להר הבית משבעה שפודין של ברזל וחברום בבעץ והיו מתעסקים בהם כל שמנה. ה' (וכל ... להדליק) התקנו בו כלי שרת והיו מתעסקין בו שמנה ימים ומה ראו להדליק את הנרות אלא בימי מלכות יון שנכנסו בני חשמונאי להיכל שבעה שפודים של ברזל בידם וחפום בעץ והדליקו בהם את הנרות. 13-16 א' (היא ... יד) נוהגת לדורות שעשאוהו בצאתם מצרה לרוחה ואמרו בה הלל והדליקו בה נרות בטהרה שכשנכנסו יונים להיכל טמאו כל הכלים ולא היה שמן במה להדליק וכשנברו מלכות. 17-18 א' ה' (הביאו ... להדליק). 17 רטור, המאסף עמ' 106: שמונה, ועי' פסקתא רבתי עמ' 6.

להדליק. ומה ראו לגמר בהם את ההלל ללמדך שכל תשועה ותשועה שעשה הקדוש ברוך הוא לישראל הם מקדימין לפניו בהלל ובשבח וכך הוא אומר בספר עזרא ויענו כל העם בהלל ובהודות לה' כי טוב כי לעולם חסדו על ישראל וכל העם הריעו תרועה גדולה בהלל לה' על הוסד בית ה' ואומר לה' הישועה על עמך ברכתך סלה. להקדוש ברוך הוא לעשות נסים ונפלאות ולנו להללו ולברכו שנאמר על עמך ברכתך סלה. מצות נר חנכה נר אחד לכל בית והמהדרין נר אחד לכל נפש והמהדרין מן המהדרין מוסיפין נר לכל נפש ונפש לכל לילה. בית שמאי ואומרים יום ראשון מדליק שמנה מכאן ואילך פוחת והולך ובית הלל אומרים יום ראשון מדליק אחד מכאן ואילך מוסיף והולך. שני זקנים היו בצידין אחד עשה כדברי בית שמאי ואחד כדברי בית הלל זה נותן טעם לדבריו וזה נותן טעם לדבריו זה אומר כפרי החג זה אומר מעלין בקדש ואין מורידין. מצות הדלקתה משתקע החמה ועד שתכלה רגל מן השוק ומצוה להניחה על פתח ביתו מבחוץ ואם היה דר בעליה מניחה בחלון הסמוך לרשות הרבים. ואם מתירא מן הגויים מניחה על פתח ביתו מבפנים ובשעת הסכנה מניחה על שלחנו ודיו.

### בעשרין ותמניא לטבת יתיבת כנשתא על דינא. מפני שהיו

הצדוקין יושבין בסנהדרין ינאי המלך ושלמינון המלכה יושבת אצלו ולא אחד מישראל יושב עמהם חוץ משמעון בן שטח והיו שואלין תשובות והלכות ולא היו יודעין להביא ראיה מן התורה. אמר להם שמעון בן שטח כל מי שהוא יודע להביא ראיה מן התורה כשר לישב בסנהדרין. פעם אחת נפל דבר של מעשה

19 עזרא נ' י"א (בשנויי נוסחאות). 22 תהלים נ' ט'.

18 ר"ה כ"ד ע"ב. ע"ז מ"ג ע"א. מנחות כ"ח ע"ב. פסיקתא רבתי פ"ב. 28 ברכות כ"ח ע"א. הוריות י"ב ע"ב. יומא י"ב ע"ב; כ' ע"ב; ע"ג ע"ב. מגלה ט' ע"ב; כ"א ע"ב. מנחות כ"א ע"ב; ל"ט ע"א; צ"ט ע"א. מס' סופרים כ' ה'; ד'.

31-18 א' (ומה ... ודיו). 19-18 ה' (וללמדך ... עזרא) אלא שכל תשועה ותשועה שה' ק"ב'ה' עושה להם לישראל היו מקדימין לפניו בהלל בשירה ובשבח ובהודאה וכך הוא אומר כענין שנ'. 23-22 ה' (ואומר ... סלה). 24 ה' (נר אחד) נר (פעמים). ה' (לכל בית) איש וביתו. 31-24 פ' (מוסיפין ... ודיו) וכו' כדאיתא בבמה מדליקין. 20 ק' ד' עד.

14-1 א' כי בימי ינאי המלך ושלציון המלכה היו יושבין ולא היה עמהם אלא שמעון בן שטח והביא מתלמידיו עד שנחמלאה והיו שואלין שאלות והלכות ולא היו יודעין מה להשיב שלחו והביאו שמעון בן שטח והביא מתלמידיו עד שנחמלאה סנהדרין בעשרים ותלתא. 1 ה' (שהיו) כשהיו. 2 פ' (בסנהדרי תמיד). ה' [שלחם]. 4-2 פ' 'ינאי ... היו) ואינו. 2 ה' (כשר) יאה ראוי. ה' נוכל מי שאינו יודע להביא ראיה מן תורה אינו ראוי לישב בסנהדרין]. 7-6 פ' (דבר ... היו) דבר מעשה אחד ביניהם ואינם.

<sup>1</sup> συνεδριον.



בניהם ולא היו יודעים להביא ראיה מן התורה אלא אחד שהיה  
מפספט כנגדו ואומר תן לי זמן ולמחר אשוב נתן לו זמן הלך וישב  
לו בינו לבין עצמו ואינו יכול להביא ראיה מן התורה למחר  
נתיש לבא ולישב בסנהדרין והעמיד שמעון בן שטח אחד מן  
התלמידים והושיבו במקומו אמר להם אין פוחתין בסנהדרין  
משבעים ואחד וכך עשה להם בכל יום יום עד שנסתלקו כלם וישבה  
סנהדרין של ישראל יום שנסתלקה סנהדרין של צדוקים וישבה  
סנהדרין של ישראל עשאוהו יום טוב.

בתרין בשבט יום טב ודילא למספד. ולמה שנו זה מזה שבראשון

אינו כתוב ודילא למספד ובוה כתוב. אלא שבראשון מת הורודוס  
ובוה מת ינאי המלך. ששטחה היא לפני הקדוש ברוך הוא כשהרשעים מסתלקי  
מן העולם. אמרו כשחלה ינאי המלך שלח ותפש שבעים זקנים מוקני  
ישראל נטלן וחבשן בבית האסורין וצוה לשר בית האסורין אם  
מתי הרג את הזקנים ההם עד שישראל שמחין להם ידו על  
רבותיהם. אמרו אשה טובה היתה לו ושלמינון שמה וכשמת סלקה  
טבעתו מעל ידו ושלחה לשר בית האסורין אמרה לו רבך בחלום  
התיר אותם הזקנים התירם והלכו להם לבתיהם ואחר כך אמרה  
מת ינאי המלך יום שמת בו ינאי המלך עשאוהו יום טוב.

4 יוסף בן מתתיהו, מלחמות א' ס"י תרנ"ט-תר"ס; תרס"ו. עתיקות י"ז ס"י קע"ג-קע"ט;  
קצ"ג. מאור עינים ד' כ"א.

7 ה' (אלא) חוץ מוקן. 8 ה' (ואמר) אמר. ה' (אשוב) אני משיבך. פ'  
והלך. 9 ה' (ואינו יכול) וכיון שראה שלא היה יודע. 10 פ' (נתיש) בוש. ה'  
מלבא. ד' ומלישב. ה' בסנהדרין [נדולה]. 12 ה' (משבעים ...) להם) של שבעים  
ואחד וכך היה עושה. 13 פ' (וישבה ...) ישראל). ק' [על דרתא]; ד' [על  
דעתה]. ה' (יום) ובאותו היום. 14 פ' (וישבה ...) ישראל).  
10-1 א' שבו מת ינאי המלך ששטחה לפני המקום באבוד רשעים. 1 פ' (ולמה ...)   
שבראשון) ובוה כתוב בו ולא למספד ולמה שנו זה מזה אלא שבראשון. 2-1 ה'   
(שבראשון ...) כתוב). 3 פ' (ודילא) ולא. פ' (הודרום. 4-3 פ' (ששטחה ...)   
המלך). 5 פ' (נטלן). ה' (וצוה) אמר לו. פ' (לשר בית) לרב בבית. 6 ה' (והם   
עד) הללו ועד. פ' (ידו) דיוו. 7 ה' (רבותיהם) רבותם. ה' לו [לינאי המלך]. פ'   
שלמנצון המלכה; ו' (שלמירון) מאור עינים: סאלמינון. 7-8 פ' (וכשמת ...) האסורין).  
8 ק' (ושלחה ...) האסורין). 9-8 פ' (בחלום התיר אותם) נחלם התיר את. 9 ו'  
והתירם והלכו להם לשלום. 10-9 פ' (ואחר ...) שמת) הודיעום שמת. 10 ה'   
(יום שמת בו) ואותו היום שמת. ק' ד' [כל הכתוב במגלה ...]; ע' בסוף  
מ"ח.

בעשרין ותרין ביה בטילת עבדתא דיאמר סנאה לאיתאה  
להיכלא דילא למספר. מפני ששלח קסגלגס את הצלם  
 להעמידו בהיכל ובאה שמועה לירושלם ערב החג. אמר להם  
 שמעון הצדיק עשו מועדיכם בשמחה שאין דבר מכל הדברים  
 ששמעתם. מי ששכן שכינתו בבית הזה כשם שעשה נסים  
 לאבותינו בכל דור ודור כך יעשה לנו נסים בזמן הזה. וכיון  
 שראה שהיו משמשים ובאין אמר להם צאו וקדמו לפניהם יצאו  
 מלאכים וקדמו לפניהם מלאך אחד לעכו והשני לצור והשלישי  
 לצידן והרביעי לכזיב. וכשנודע הדבר יצאו מלפניו כל גדולי  
 ירושלם אמרו נמות ולא תהא כזאת היו צועקים ומתחננים  
 לשליח. אמר להם השליח עד שאתם צועקים ומתחננים לי צעקו  
 והתחננו לאלהיכם שבשמים כיון שהגיע לכרכין ראה בני אדם  
 שהם מקדימים אותו מכל כרך וכרך כיון שראה אותם היה תמה  
 אמר כמה מרובין אלו. אמרו לו אלו הן היהודים שהקדימו  
 לפניך לכל כרך וכרך נכנס לכרכין וראה את בני אדם שהן  
 מטלין בשוקים על השק ועל האפר לא הגיע לאנטיפטרס עד  
 שבאה לו אגרת שנהרג קסגלגס מיד נטל את הצלם ונתנו לישראל

2 יוסף בן מתתיהו, מלחמות ב' סי' קפ"ד-קפ"ו; קצ"ב-ר"ג. עתיקות י"ח סי' רס"א-ש"ט.

א' (מפני ששלח) שבימי; ה' יום ששלח. א' קלוסוס; ק' ד' נסקלגס; מאור  
 עינים; קסגלגס. 3-2 פ' ה' את הצלמים להעמידם; א' גורו להעמיד צלם.  
 9-3 פ' (ובאה ... לכזיב). 3 ה' (ובאה) ובאתה. ה' (החג) יום טוב הראשון של חג.  
 4 א' (שאין) אין. ה' (דבר) אחד. א' (הדברים) מה. ה' (הללו). 7-5 א' (מי) ...  
 משמשים) מוציאים יום טוב אל האולם ואמרו מי ששכן כבודו בבית הזה שמשמשים. 7 ה'  
 (שראה) שראו. א' (אמר) ... לפניהם) רחם נא. 9-7 ה' (יצאו ... לכזיב). 8 א'  
 (לעכו). 18-9 א' (וכשנודע ... אותו) ואמרו עד שתמות תיהי דא עד שתמות תחוי דא.  
 10 ה' (ירושלם) ישראל. ה' (ולא תהא) כלנו ולא תהא לנו. פ' (כזאת) ...  
 ומתחננים) זו היו מתחננים וצועקים. 11 ה' (השליח). ה' (ומתחננים ל). ק' ד' (לי)  
 לשליח. 12 ה' (התחננו; ק' ד' (התחננו וצעקו לאלהיכם שבשמים להושיע אתכם.  
 15-12 פ' (כיון ... לפניך) והיו מקדימין אותו לכל כרך וכרך וכיון שהגיע לכרכין היה  
 השליח אומ' כך הם ישראל מרובין אמר לו המסורות הן הן יהודאין שהן מקדימין אותך.  
 15 ה' (לכל ...) שהן) מכל כרך וכרך כיון שנכנס לכרך ראה את בני אדם שהיו.  
 16 פ' (בשוק על השקין. ה' (לאנטיפטרס). 17 פ' (שבאה ... שנהרג) שבאתה  
 לו שמועה שמת. ק' ד' נסקלגס. ה' (ובטלו מורחיו). 20-17 פ' (הצלם ...) היום)  
 הצלמים ונתנם לישראל ונרדום יום שגררו אותם. 18-17 ה' (בטלו >ק'  
 נטלו) את הצלמים וגררו אותם.

וגררו אותו. ושמע שמעון קול מבית קדשי הקדשים שהוא אומר בטילת עבדתא דיאמר סנאה לאיתאה להיכלא אחקטיל קסגלס ובטלו גורותיו וכתבו אותה עשה וכונו ואותו היום עשאוהו יום טוב. <sup>20</sup>

### בעשרין ותמניה ביה אתנטיל אנטיוכוס מלכא מן ירושלם.

שהיו בירושלם והיו מצרין להם לישראל ולא יכלו לצאת ולבא מפניהם ביום אלא בלילה שבא להחריב את ירושלם ולהשמיד את כל היהודים ויבהילוהו שמועות רעות והלך לו ונפל במקומו יום שיצא משם עשאוהו יום טוב. <sup>8</sup>

### בתמניה ובתשעה לאדר יום תרועת מטרא. אם התריעו

בראשון למה הוצרכו להתריע בשני אלא הראשון בשנה אחת והשני בשנה אחרת. ולא כל הכתוב במגלה ראשון הוא ראשון ולא הכתוב אחרון הוא אחרון אלא תפסו להם חדש ראשון וכל שיש בו שני וכל שיש בו שלישי וכל שיש בו. <sup>8</sup>

<sup>4</sup> הניאל י"א מ"ד.

<sup>18</sup> סוטה ל"ג ע"א. תוספתא סוטה י"ג ו'. ירוש' סוטה ט' י"ד (כ"ד ע"ב). שיהש"ר ח' ט'. מאור עינים ד' כ"ב.

<sup>18</sup> ה' (ושמע שמעון) מיד שמע (אחרי שורה 6). א' (קול ... בטילת) קל.  
<sup>19</sup> א' ה' להיתאה. א' (אחקטיל) בטילת; ק' ד' אקטיל. א' (קסגלס) קלקלחם; ק' ד' נסקלס. <sup>20-19</sup> א' (וכתבו ... טוב). <sup>19</sup> ד' (ואותו) אותו.  
<sup>2</sup> א' (שהיו ... בלילה). <sup>3-2</sup> ה' (שהיו ... שבא) מפני שהיה מיצר לבני ירושלם.  
<sup>4-3</sup> פ' (שבא ... במקומו). <sup>3</sup> א' (להחריב ... היהודים) להשמיד ולהרוג ולהחריב ירושלם עמד. ו' (היהודים) הגוים. ה' (ויבהילוהו) ולא היו ישראל יכולין לצאת ולבא ביום אלא בלילה ושמע. א' (והלך לו) מארצו. ה' (יום שיצאו) ואותו היום שנטלוהו. <sup>5-4</sup> א' (יום ... טוב). פ' שיצאו.  
<sup>1</sup> ה' ואם. <sup>2</sup> א' (בראשון) בשמיני. פ' (הוצרכו להתריע) מתריעין; ה' התריעו א' (בשני) בתשיעי. א' (הראשון) שמיני; ה' ראשון. פ' ה' (בשנה) משנה. ו' (אחת); א' ק' ד' זו. א' (והשני) ותשיעי; ה' ושני. פ' ה' (בשנה) משנה. פ' (ולא כל הכתוב) לא כך כתוב. א' (הכתוב) שכתוב. פ' א' (במגלה); ק' ד' (הוא). <sup>4-3</sup> פ' (ולא הכתוב אחרון). ה' (ולא ... הוא אחרון) שני הוא שני שלישי הוא שלישי. פ' (וכך תפסו ואמרין) להם. <sup>5</sup> א' ה' (שני ... בו).

בתרין עשר ביה יום טיריון. (בתרין עשר ביה יום טורינוס).

שתפס את לולינס ואת פפוס אחיו בלודיקא אמר אם מעמי של חנניה מישאל ועזריה אתם יבא אלהיכם ויציל אתכם מידי כדרך שהציל לחנניה מישאל ועזריה מיד נבוכדנצר. אמרו לו חנניה מישאל ועזריה צדיקים כשרים היו ונבוכדנצר מלך הגון היה וראוי ליעשות נס על ידו אבל אתה מלך רשע אתה ואין ראוי ליעשות נס על ידך ואנו חייבין מיתה ואם אין אתה הורגנו הרבה הורגים יש למקום הרבה דבים הרבה אריות הרבה נחשים הרבה עקרבים שיפגעו בנו ואם אתה הורגנו עתיד הקדוש ברוך הוא לתבוע דמנו מידך. אמרו לא נסע משם עד שבאת עליו דיופלי של רומי ופצעו את מחו בגזירין ובבקעות.

בתלת עשר ביה יום ניקנור. אמרו ניקנור פולמרכוס של

מלכי יון היה עובר לאלכסנדריה בכל יום ויום והיה מניף ידו כנגד ירושלם וכנגד בית המקדש ומחרף ומגרף ומנאץ ואומר מתי תפל בידי ואהרסנה וכשתקפה יד בית חשמונאי ירדו לתוך חילותיו והיו הורגו עד שהגיעו לקרוביו שלו וחתכו את ראשם וקצצו את בהנות ידיהם ורגליהם וחתכו את ראשו וקצצו את אבריו ותלאום כנגד בית המקדש אמרו פה שדבר בגאווה ויד שהניפה כנגד יהודה וירושלם ועל בית המקדש נקמה זו תעשה בהם יום שעשו כן עשו אותו יום טוב.

2 תענית י"ח ע"ב. ירוש' מגלה א' ו' (ע' ע"ג). ירוש' תענית ב' י"ג (ס"ו ע"א). ספרא בחקותי ב' ה' ב' (ס"י רכ"ו, נ"ז, ב'). ספרא אמור ז' ט' ה' (ס"י קצ"ח, נ"ז, ב'). קהלת רבה ג' כ"ב. מדרש וזוטא קהלת ג' י"ז; ט' י'. שמחות פ"ח. ירוש' סנהדרין ג' ו' (כ"א ע"ב) ירוש' שביעית ד' ב' (ל"ה ע"א). לקח טוב כ"ח ע"ב. מכילתא דר' שמעון כ"א י"ג. ילקוט ס' תרמ"ג. 7 ב"ר י' ו'. סוטה ח' ע"ב. סנהדרין ל"ז ע"ב. כתובות ל' ע"א-ע"ב. כלה בסופה. סדר אליהו רבה פ' כ"ח.

1 תענית י"ח ע"ב. ירוש' תענית ב' י"ג (ס"ו ע"א). ירוש' מגלה א' ו' (ע' ע"ג). יוסיפון ג' כ"א-כ"ב. 3 חשמונאים א' ז' ל"ה. חשמונאים ב' י"ד ל"ג. 4 חשמונאים א' ז' מ"ז-מ"ט. חשמונאים ב' ט"ו ל'. 7 חשמונאים ב' ט"ו ל'.

11-1 חסר בפ' א'. 2 ו' בלודיקא. 6 ו' (ראוי). 10 ו' דיופלא; ק' ד' דיופלה. 11 ד' בניזרין.

6-1 א' (אמרו ... אבריו) שהן מניפין ידיהן על ירושלם והר ציון וקבע אחד מביית חשמונאי ופסק ראשו. 1 פ' אמר על. פ' פולמורדוס; ה' אחד מהפרכי. 2 ה' (יון) יונים. פ' (עובר ... ויום). ה' (והיה) היה. 3 פ' (ומנאץ ואומר). ה' יפלו. 4 ה' (ואהרסנה ... חילותיו) ואהרוס את המגדל הזה וכשנברה מלכות בית חשמונאי ונצחום נכנסו לחיילות שלו. 5-4 פ' (והיו ... ורגליהם). ה' (אבריו ... פה) בהנות ידיו ורגליו ותלאוהו נגד ירושלם וכתבו מלשון הפה. א' (כנגד ... אמרו) בשער ירושלם ואמר. 7 פ' בגאווה. 8-7 א' (טוב ... תעשה בו נקמה וידים המניפות על ירושלם תקצצנה. 7 פ' (יהודה וירושלם ועל). 8-7 פ' נקמות יעשה. 8 ה' (יום) ואותו היום. ה' (כן) לו כך. פ' ק' ד' עשאוהו.

<sup>2</sup> διπλῆ=διπλωμα. <sup>2</sup> πολέμαρχος. <sup>3</sup> ὑπαρχος. <sup>4</sup> =carruca.

### בארביסר ביה ובחמיסר ביה יומי פוריא אנון דילא למספד.

ימים שנעשו בהם נסים לישראל על ידי מרדכי ואסתר ועשאוּם ימים טובים. אמר רבי יהושע בן קרחה מימות משה לא עמד נביא וחדש מצוה חוץ ממצות פורים אלא שנאולת מצרים נוהגת שבעה ונאולת מרדכי ואסתר אינה נוהגת אלא יום אחד. דבר אחר. ומה נאולת מצרים שלא נורה גורה אלא על הזכרים בלבד שנאמר <sup>5</sup> כל הבן הילוד היאורה תשליכוהו ונומר עשו אותם ימים טובים נאולת מרדכי ואסתר שנורה גורה על הזכרים ועל הנקבות שנאמר מנער ועד זקן טף ונשים ביום אחד על אחת כמה וכמה שאנו חיבים לעשות אותם ימים טובים בכל שנה ושנה.

### בשת עשר ביה שריו למבני שורא דירושלם דילא למספד.

מפני שסתרוהו גוים וכשהתחילו לבנותו אותו היום עשאוהו יום טוב. ששמחה לפני המקום בבנין ירושלם שנאמר בונה ירושלם ה' נדחי ישראל יכנס. כה אמר ה' שבתי אל ציון ושכנתי בתוכך ירושלם ונקראה ירושלם עיר האמת והר ה' צבאות הר הקדש. ואמר שבתי <sup>5</sup> לירושלם ברחמים ביתי יבנה בה נאם ה' צבאות וגומר ואמר הוא יבנה עירי וגלותי ישלח לא במחיר ולא בשחד אמר ה' צבאות וקו ינטה על ירושלם.

### בשובעת עשר ביה קמו עממיא על פלטת ספריא במדינת

כדקים בבית זבדי והוה פורקן. שכששדר ינאי המלך להרג את החכמים ברחו מלפניו והלכו להם לסוריא ושרו במדינת

■ שמות א' כ"ב. 7 אסתר ג' י"ג.

3 תהלים קמ"ז ב'. 4 זכריה א' ג'. 5 זכריה א' ט"ז. ■ ישעיה מ"ה י"ג.

8 זכריה א' ט"ז.

2 יוסף בן מתתיהו. עתיקות י"ג סי' שפ"ג; מלחמות א' סי' צ"ח.

3-2 א' (ימים ... טובים). 9-8 פ' (אמר ... ושנה). 3 א' (קרחה) לוי.

ה' (מימות) מיום שמת. ה' (מצוה) מצות לישראל. 4 א' (שנאולת) נאולת. ה' שבעה

[ימים]. א' (ואסתר). 6-5 א' ו' ק' ד' (בלבד ... וגומר). 6 א' ב' ד'

(עשו ... טובים). ק' (עשו) אנו עושין. 7 א' ב' (מרדכי ואסתר) אסתר. ב' (גורה);

ו' (שנורה גורה) שהיתה. א' ו' ק' ד' (שנאמר).

3-2 א' (מפני ... טוב). 2 פ' (אותו היום). 8-3 פ' (ששמחה ... ירושלם).

3 ו' ק' ד' ששמחה (היא). ה' שירושלם נבנית. 4-3 ה' (בונה ... יכנס). 4-3 א'

וכה ... ירושלם. 8 ו' ק' ד' (וקו ... ירושלם).

10-2 א' כשראה ינאי המלך הרג בוקינס ובוקינס אחיו וברחו מלפניו והלכו לסוריא

ובמדינת בליקוס נתכנסו כל אנשי המקום להורגו והרעיש עליהן ה' רעש גדול והיתה

בתוכם מכה גדולה. 5-2 פ' (שכששדר ... פלטה) מפני שבקשו נזים להרוג את חכמי

ישראל. ■ ו' ק' ב' (שכששדר) שכשירד. 3 ב' חכמי ישראל.



כלקים ונתכנסו עליהם הגוים שבאותו מקום וצרו עליהם להרגם<sup>6</sup> והזיעו בהם זיע גדול והכו בהם מכה רבה והשאירו מהם פלטה והלכו להם לבית זבדי וישבו שם עד שחשכה וברחו משם. רבי יהודה אומר סוס היה קשור בפתח וכל מי שהיה רואה אותו כמדמה שאין שם יהודי וישבו שם עד חשכה וברחו משם יום שברחו משם עשאוהו יום טוב. רבי חדקא אומר יום שבקשו גוים להרג את חכמי ישראל עלה הים והשחית שליש בישוב.

בעשרין ביה צמון עמא על מטרא ונחת להון (בכ"ב) אחר  
שעברו ג' שנים ולא המטיר ריחם ה' על הארץ ונענה). מפני שהיה רעבון ובצרת בארץ ישראל ולא ירדו להם גשמים שלש שנים זו אחר זו.

<p>פ' ער שירד חוני המעגל לפני התבה והתפללו וירדו גשמים יום שירדו גשמים עשאוהו יום טוב.</p>	<p>א' ה' והתפללו ולא ירדו גשמים וכיון שראו שיצא רב אדר ולא ירדו להם גשמים הלכו להם אצל חוני המעגל אמרו לו התפלל וירדו גשמים. אמר להם צאו והכניסו תנורי פסחים בשביל שלא ימקו. התפלל ולא ירדו גשמים. ענ עונה ועמד בתוכה כדרך שעשה חבקוק הנביא שנאמר על משמרת י אעמודה ואתיצבה על מצור ואצפה לראות מה ידבר בי ומה אשיב על תוכחתי.</p>
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אמר רבנו של עולם בניך שמו פניהם עלי כשאני כבן בית לפניך. נשבע אני בשמך הגדול שאני זו מכאן עד שתרחם על בניך התחילו הגשמים יורדין טפין טפין אמרו לו רבי ראינוך לא נמות כסבורין אנו לומר אין הגשמים הללו באין אלא להתיר שבועתך. אמר להם בני אל תמותו אמר רבנו של עולם לא כך שאלתי אלא גשמי בורות שיחין ומערות התחילו

9 חבקוק ב' א'.

2 יוסף בן מתתיהו, עתיקות י"ד סי' כ"ב. תענית נ' ח'; כ"ז ע"א. תוספתא תענית נ' א'. ירוש' תענית נ' י'-י"ב (סו' ע"ד-ס"ז ע"א). תנחומא תבא ד'.

4 ו' ב' קליקוס; ק' ד' קוסליקוס. ו' ק' ד' ונכנסו הגוים עליהם. 6 ב' זבדאי.  
 7 ו' ד' קשור היה. ה' [להם] בפתח; פ' על הפתח כל. ו' ק' ד' (שהיה) שהוא.  
 פ' (אותו) את הסוס. 8 ה' (וישבו שם) וישבו להם. פ' ב' שחשכה. ו' ק' ד' (משם יום) להם אותו היום. 9 ב' (שברחו משם). 10-9 פ' (רבי ... בישוב). 9 ק' ב' ד' (אח).

30-2 א' (מפני ... לפי). 11 ב' (ובצרת) וביצרון. ה' (ולא ... גשמים). 7 ו' ק' ד' (וירדו) שירדו. 30-7 ב' (להם ... אביך) וכולי עד ישמח אביך. 13 ד' (רבי) רבנו של עולם.

הגשמים יורדין בועף כל טפה וטפה כמלא פי חבית ושערו חכמים טפה אחת לנו. אמרו  
 לו ראינוך לא נמות כסבורין אנו לומר אין הגשמים הללו באים אלא להחריב את העולם.  
 אמר להם בני אל תמותו. אמר רבוננו של עולם לא כך שאלתי אלא נשמי רצון ברכה ונדבה  
 ירדו כחקנן עד שעלו ישראל מירושלם להר הבית מפני רב הנשמים. אמרו לו כשם שהתפללת  
 עליהם שירדו כך התפלל עליהם שלא ירדו. וילכו להם. אמר להם אין מתפללין על רב  
 20 הגשמים. אלא לכו והביאו פר הודיות. הלכו והביאו לו פר הודיות. סמך שתי ידיו עליו  
 ונתפלל ואמר רבוננו של עולם ראה עמך ישראל ונחלתך אשר הוצאת בכתך הגדול ובזרועך  
 הנטויה שאין יכולין לעמד לא ברב זעמך ולא ברב טובך. כעסת עליהם אין יכולין לעמד.  
 השפעת להם טובך אין יכולין לעמד יהי רצון מלפניך שיהא רוח. מיד נשבה הרוח ונתפרו  
 25 העבים וזרחה החמה ונתגנבה הארץ ויצאו הכל לשדה וראו את המדבר שהוא מלא כמהין  
 ופטריית. שלח לו שמעון בן שטח אלמא חוני המעגל אתה נזרני עליך נדוי שאלו היו שנים  
 כשני אליהו לא נמצא שם שמים מתחלל על ידיך מה אעשה שאתה מתחטא לפני המקום  
 כבן שהוא מתחטא על אביו ועושה לו רצונו. אומר לו הבא לי חמין ומביא לו הבא לי צונן  
 ומביא לו תן לי אגוזים ונותן לו תן לי רמונים ונותן לו. תן לי אפרסקין ונותן לו ועליך הכתוב  
 30 אומר י ש מ ח א ב י כ ו א מ כ ו ת נ ל י ו ל ד ת כ אותו היום עשאוהו יום טוב לפי  
 שאין הגשמים יורדים אלא בזכותן של ישראל שנאמר י פ ת ח י י לך את אוצרו  
 הטוב את השמים. לך בזכותך וכך הדבר תלוי. ואומר ונברכך בך כל  
 משפחות האדמה ובזרעך. בך בזכותך הגשמים יורדין והטללים יורדין בזכותך.  
 ואומר ונתתי גשמים בעתם. ומעשה שנתענו בימי שמואל הקטן וירדו להם גשמים  
 35 קדם הגץ החמה כסבורים העם לומר שבח הוא להם. אמר להם הרי אתם דומים למלך  
 שכעס על בנו אמר לאפטרופוס<sup>2</sup> שלו אל תתן לו פרנסתו עד שיבכה ויתחנן לפני.

32 בראשית י"ב ג'.

31 דברים כ"ח י"ב.

30 משלי כ"ג כ"ה.

34 ויקרא כ"ו ד'.

34 תענית כ"ה ע"ב.

21 תענית כ"ב ע"ב.

16 ו' ד' (בועף ... וטפה). 17 ד' העולם [כולין]. 23 ק' ד' (זעמך) כעסך.  
 24 ק' רוח [בעולם]. 25 ק' ד' צונן והביא. 29 ו' ד' (ונותן) ונתן (ע' פעמים). 31 ו' יורדים  
 29-28 ו' ד' (בזכותן של) בשביל. 32-35 א' (ולך ... דומים) וזה היה בימי שמעון  
 הצדיק ואמר להם משל. 33 ב' (בך ... בזכותך) בך ובזכותך הגשמים והטללים.  
 34 ו' (ואומר) שני. 36-34 ב' (ומעשה ... לפני) מעשה בשמואל הקטן וכו' כסבורין  
 העם לומר שבח ציבור הוא וכו' כמו שכתוב בסדר תעניות האילול. 36-35 א' (אמר ...  
 פרנסתו) ואמר לבן ביתו אל תתן לבני פרנסה.

<sup>1</sup> περσικά.<sup>2</sup> ἐπίτροπος.

בעשרין ותמניא ביה אתת בשורתא טבתא ליהודאי דילא  
יעדון מן אוריתא ולא למספד. מפני שגורו מלכי אדום הרשעה  
 שמד על ישראל שלא ימולו את בניהם ושלא ישמרו את השבת  
 ושיעבדו עבודה זרה וברית כרותה לישראל שלא ימוש ספר התורה מתוכם שנאמר  
 5 כי לא תשכח מפי זרעו. ואמר אם ימוש החקים האלה מלפני  
 וגמר ואמר ואני זאת בריתי אותם וכו'. מה עשה יהודה בן שמוע  
 וחבריו עמדו והלכו אצל מטרונתי אחת שכל גדולי רומי מצויין  
 אצלה ונתנה להם עצה באו והפגינו בלילה ואמרו אי שמים לא  
 אחיכם אנחנו בני אב אחד אנחנו בני אם אחת אנחנו. מה נשתנינו  
 10 מכל האומות שאתם גוזרים עלינו גזרות הללו ולא זזו משם עד  
 שהותרו שלש מצוות לישראל שימולו את בניהם ושישמרו את  
 השבת ושלא יעבדו עבודה זרה יום שהותרו להם עשאוהו יום טוב.

להן כל אנש דאתי עלוהי מן קדמת דנא ייסר בצלו.  
 כיצד יחיד שקבל עליו להיות מתענה אירע יום טוב הכתוב  
 במגלה הרי זה מפסיק. זה הכלל כל שנדרו קודם לגורתו תבטל גורתו מפני

6 דברים לא כ"א. ירמיה לא ליה. 6 ישעיה נ"ט כ"א.

2 תענית י"ח ע"א. ר"ה י"ט ע"א.

2 תענית י"ב ע"א. ירוש' מגלה א' ו' (ע' ע"ג). תשובות הגאונים מתוך הגניזה ע"פ 127.  
 כל בו הלכות תענית. אורחות חיים שם פ"ה. אור זרוע ב' ס' ת"ה.

12-2 א' שבימי מלכות יון הרשעה גזרו שמד שלא יקרא אדם בתורה וברית כרותה  
 שנ' ואני זאת בריתי אותם אמר יי לא ימוש ספר התורה הזה מפני. 2 פ' (שגורו מלכי  
 אדום) שגורה מלכות. ק' ב' ד' (אדום הרשעה) יון. 3 ו' ק' ד' (שמד). ה' שלא  
 ויעסקו בתורה ושלא. 4-6 פ' (וברית ... עשה) עד שהלך. 7 ב' (עמדו); ו'  
 ק' ד' (עמדו והלכו). ו' ק' ד' מטרונתיא. 7-10 ב' (שכל ... ולא) וכו' עד שלא.  
 6-7 פ' (שכל ... אצלה). 8 ו' ק' ד' (ונתנה ... באו) ונטלו עצה מפניה. אמרה  
 להם באו <ן' צאו> והפגינו בלילה. עמדו. ק' ד' (ואמרו). ו' השמים. 9 ו' ק' ד'  
 לא בני (פעמים). 10-11 ו' ק' ד' (האומות ... שהותרו) אומה ולשון שאתם גוזרים  
 עלינו גזרות קשות ולא זזו משם עד שהתירו להם. 11-12 ב' (שהותרו ... להם) שהתירו  
 לעסוק בתורה והתירו שלש דברים הללו. 11 ו' ק' ד' (לישראל). 11-12 ק' ד'  
 למול את בניהם ולעסוק בתורה ולשמור. 12 ו' ק' ד' אותו היום שהתירו להם <חסר  
 בן> ד' <שלש מצות הללו > [לישראל].

2-4 א' כל שקבל עליו להתענות בשבוע אינו מפסיק לימים שבתוכה אבל מפסיק  
 לימים טובים שבתוכה. 2 ב' כאיזה צד. ה' (להיות ... הכתוב) תענית להיות מתענה  
 בשני ובחמישי הרי זה מתענה ומשלים. פגעו בו ימים טובים הללו <ק' ד' אל> הכתובים.  
 3 פ' ה' במגלת תענית. ו' (מפסיק) מותר: ק' ד' מספד. 4-3 ה' (תבטל ... יבטל)  
 תדחה גורתו מפני נדרו ואם גורתו קודמת לנדרו ידחה.

<sup>1</sup> matrona.

נדרו וכל שנורתנו קודמת לנדרו יבטל נדרו מפני גורתנו. כל הכתוב במגלה דילא למספד  
 5 מתענין לאחריו ואין מתענין לפניו. רבי יוסי אומר לא לפניו ולא לאחריו. וכל שאין בו דילא  
 למספד אלא דילא להתעננה לחוד מתענין לפניו ולאחריו. רבי יוסי אומר לאחריו אבל  
 לא לפניו. אבל בימים טובים וראשי חודשים מחר לפניו ולאחריו. ולמה התירו באלו  
 ואסרו באלו. אלא אלו דברי תורה ואין דברי תורה צריכין חזק ואלו דברי סופרים ודברי  
 סופרים צריכין חזק. רבי יוסי בן דוסתאי אומר משום רבי יוסי הגלילי כל הנשבע להתענות  
 10 בערבי שבתות ובערבי ימים טובים הרי זו שבועת שוא שמקצת ערב שבת כשבת ומקצת  
 ערב יום טוב כיום טוב. ואין בין אדר הראשון לאדר השני אלא מקרא מגלה ושלוח מתנות  
 לאביונים. רבן שמעון בן גמליאל אומר כל מצוה שנוהגת באדר הראשון אינה נוהגת באדר  
 השני חוץ מן ההספד ותענית שנוהגים זה כזה. וכותבין בשטר אדר ראשון אלא שכותבין  
 תניין. רבי יוסי אומר אין כותבין אלא תניין. רבי יהודה אומר השני נכתב. סיעתו של רבי  
 15 אליעזר בן חנניא בן חזקיהו איש גורון הם כתבו מגלת תענית מפני שאין למודין בצרות  
 ואין הצרות מצויות לבא עליהם אבל בזמן הזה שהם למודים בצרות והצרות באות עליהם  
 אם יהיו כל הימים דיו וכל היערות קולמוסים וכל בני אדם לבלריים אין מספקין לכתב  
 הצרות הבאות עליהם ותשועות הנעשות להם. דבר אחר אין השוטה נפגע ואין בשר המת  
 מרניש באומל.

נגמרה מגלת תענית בסיעתא דשמיא.

4 תענית ב' ח'; י"ז ע"ב. ר"ה י"ט ע"א. 7 תוספתא תענית ב' ו'. ■ יבמות פ"ה ע"ב.  
 11 י"רש' מגלה א' ו' (ע"א ע"א). מגלה א' ד'. תוספתא מגלה א' ו'. י"רש' שקלים א' א'  
 (מ"ה ע"ד). שבלי הלקט קל"ב ע"א. ס' תניא ס"ב. 18 נדרים ס"ג ע"א. שבת י"ג ע"ב.  
 הלכות גדולות הוצ' הילדסהיימר עמ' 615; הוצ' ורשא רפ"ב ע"ב. 17 שבת י"א ע"א.  
 18 י"רש' תענית ג' ח' (ס"ו ע"ד).

4-11 (כל ... טוב) חסר בפ' ב'; בן' לפני שורה 1; ק' ד' אחרי ב' בשבט.  
 7-4 א' (כל ... לפניו) וכל הכתוב במגלת תענית דילא למספד לפניו אסור לאחריו  
 מותר רב יוסי אומר בין לפניו בין לאחריו אסור. 9 ק' ד' (דוסתאי) דוסי.  
 14-11 פ' (ואין ... נכתב). 20-11 א' (ואין ... דשמיא) א"ר אליעזר א"ר חנינא.  
 11 ו' ב' ד' (מקרא) קריאת. ק' ומתנות; ב' ושילוח מתנות. 12 ב' מצוות  
 הנוהגות. 13-12 ב' (אינה ... השני) ונוהגות בשני. 13 ו' (ותענית). ב'  
 (שנוהגים) שאין נוהגות. ק' ב' בזה ובוזה. ב' שכותבין [את השני]. 14 ה'  
 נומי כתב מגלת תענית. 15 פ' (חנינא) חנינא; ק' חנינה. ה' (איש ... תענית)  
 בן גורון הם כתבו מגלת תענית ולמה כתבוה. 16 פ' (אבל ... עליהם). ב' (אבל)  
 אלא. 17 ק' ד' (יהיו) היה. ו' (היערות) האנמים; פ' הנחלים. פ' (קולמוסים)  
 ... אדם) קנים וכל העולם. ו' ק' ד' (אין) אינם. 18 ה' (ותשועות הנעשות להם)  
 בכל שנה ושנה. 20 (נגמרה ... דשמיא) חסר בן'; ב' סליק לה מגילת תענית פירקי  
 חד עשר חזק.

<sup>1</sup> κάλαμος.

<sup>2</sup> libellarii.





## DIE HOMILETISCHE PERORATIO IM MIDRASCH

EDMUND STEIN, Warschau

ES IST im Midrasch eine häufige Erscheinung, dass verschiedene Bräuche der Gegenwart in die graue Vergangenheit verlegt werden. Dieses Verfahren der Agadisten verhilft uns, die Zustände kennen zu lernen, die in den Zeiten, aus denen die fraglichen Aussprüche stammen, geherrscht haben. Jedoch nur selten war das Bestreben, die Entwicklung der Gegenwart in der alten Vergangenheit wiederzufinden, so berechtigt wie im Falle der homiletischen Peroratio.

In den tannaitischen Zeiten scheint es bereits als Regel gegolten zu haben, dass eine Predigt verheissungsvoll, also mit דברי נחומים, דברי נחמות schliessen muss. Der homiletische Schluss sollte gleichsam das Gegengewicht bilden zu den mahnenden und rügenden Worten, דברי תוכחות, die doch in keiner Predigt zu fehlen pflegten. Dieser Vorgang wurde schon bei Mose und den Propheten beobachtet. "Da Mose den Israeliten harte Worte vortrug . . . liess er seiner Rede Trostworte folgen . . . Von ihm lernten es alle anderen Propheten, die den Israeliten anfangs harte Worte vortrugen und daraufhin tröstende Worte folgen liessen."<sup>1</sup> Klarer kommt dieser Tatbestand an einer anderen Stelle zum Ausdruck, wo von einem tröstenden *Schluss* der Predigt (חתם) deutlich die Rede ist. "Sämtliche Propheten begannen mit Strafreden und *schlossen* mit Trostworten."<sup>2</sup> Der unbestimmte Ausdruck חזר ואמר wird hier durch den Terminus (חתם), anderorts auch סיים, ersetzt. In beiden Fällen handelt es sich um dasselbe, um den Schluss der religiösen Rede.

לפי שאמר להם משה לישראל דברים קשים תחלה . . . חזר ואמר להם דברי נחומים . . . וממנו למדו כל נביאים שהיו אומרים להם לישראל דברים קשים תחלה וחזורים ואומרים להם דברי נחמות. Sifre Deut. 342 (ed. Friedmann 141b). Vgl. auch Sifre Deut. anfangs.

<sup>1</sup> Pesikta de R. Kahana, כל הנביאים פתחו בדברי תוכחות וחתמו בדברי נחמות<sup>2</sup> Piska 13 (ed. Buber 116a). S. auch Piska 32 (197a) und Midrasch Schocher Tob 4, 12 (ed. Buber 24b), wo es auch heisst: כל הנביאים פתחו בחובות וסיימו בנחמות.

Für die Form der homiletischen Peroratio sind wir fast ausschliesslich auf die späteren Midraschsammlungen angewiesen; in dem tannaitischen Schrifttum finden wir nur geringe Spuren einer feststehenden homiletischen Schlussformel. Dieser Umstand berechtigt uns noch nicht, die Folgerung zu ziehen, dass die formgerechte Peroratio ganz das Erzeugnis erst späterer Zeiten wäre. Die Seltenheit der Peroratio in den älteren Schriften erklärt sich einfach aus dem halachischen, bzw. midraschalachischen Charakter dieser tannaitischen Schriften, in denen für Homilien wenig Raum vorhanden war. Wo es aber keine Homilien gab, war auch nur selten Gelegenheit, homiletische Perorationen anzuwenden. Nichts destoweniger lassen sich manche Stellen anführen, die—soweit authentisch—zeigen, dass bereits im tannaitischen Zeitalter festgeprägte homiletische Schlussformeln gebraucht wurden. Wenn wir z. B. Mischna Mo'ed Katan III als Schluss des Traktates die Worte lesen: אבל לעתיד לבא הוא אומר בלע המות לנצח ומחה ד' אלהים דמעה מעל כל בעולם הזה כך (הנשים עונות קינות), dazu der Gegensatz: אבל לעתיד לבא. Eine homiletische Schlussformel würde hier somit verwendet, um den Traktat mit דברי תנחומין zu schliessen.<sup>3</sup> Daraus würde sich zweierlei ergeben: 1. die messianische P. ragt in das tannaitische Zeitalter hinauf, und 2. die gekürzte Form weist auf den häufigen Gebrauch dieses Schlusses hin. Jedoch kann die Authentie dieses Mischnaschlusses nicht entschieden behauptet werden, da er den Eindruck eines späteren Zusatzes macht.<sup>4</sup>

Indes kommen ähnliche antithetische Traktat-, bzw. Abschnitt-Schlüsse auch in der Tosephta vor. So Baba Batra II: כל המתאבלין עליה בעוה"ז שמהין עמה לעוה"ב שנאמר . . . ירושלים: Menachoth: [ב] בניין הראשון . . . חרבה אבל בבניין האחרון . . . מה נאמר בו . . . Ausserdem muss zwischen der Formel selbst und ihrer Anwendung

<sup>3</sup> Vgl. Tosaphoth Mo'ed Katan 28b. Mit Trostworten, aber ohne die messianische Antithesis von עוה"ז—עוה"ב, schliessen Mischna und Tosephta Chullin, M. Menachoth, T. Korbanoth und Korbanoth II, T. Pea IV. Über die Gebet- und Schalom-Schlüsse in der Mischna wird unten gehandelt.

<sup>4</sup> Siehe auch Ch. Albeck, *Untersuchungen über die Redaktion der Mischna*, S. 135.

Wir können somit zusammenfassend behaupten, dass sich im tannaitischen Schrifttum ein dreifaches Schema für die messi-

<sup>s</sup> So Midr. Bereschith r. 14,5 (= Wajikra r. 14,9) בעוה"ז . . . אבלי לעיל מחחיל בנדיים ועצמות שכן כחיב . . . מחחיל (יצירת הולד) בעור ובבשר . . . אבל לעיל מחחיל בנדיים ועצמות שכן כחיב . . . Dagegen beweist nichts für das Alter der messianischen Antithese die Stelle Midr. Mischle 13,23 אמר רבי שמעון בן יוחאי העשיר אוכל את העני בעוה"ז, אבל לעה"ב וכו' da diese Agada als pseudepigraphisch zu betrachten ist. Vgl. Bacher, *Agada der Tannaiten*. II, 146.

anische Antithese findet: (a) das negative, (b) das positive, und (c) das hypothetische.<sup>6</sup> Die angeführten Beispiele sind aber ganz vereinzelt. Es steht überdies nicht ganz fest, ob die messianische Antithese bereits in tannaitischer Zeit als Peroratio verwendet wurde. Die vorhandenen messianischen Traktatschlüsse erregen kritische Bedenken. Hingegen finden wir die P. häufig in den späteren agadischen, namentlich in den homiletischen Midraschim.

Denn was die Auslegungsmidraschim anlangt, lässt sich fast immer nachweisen, dass die in ihnen enthaltenen formgerechten Schlüsse—und auf diese kommt es in unserer Abhandlung hauptsächlich an—in den homiletischen Midraschim die entsprechenden Parallelen finden. Das erklärt sich leicht aus dem analytischen Charakter der Auslegungsmidraschim, der zu solchen Schlüssen in nur geringem Masse Veranlassung gab. Lehreich wäre ein Vergleich mit Philo. In dessen analytisch-exegetischen Schriften, z. B. in den Büchern *Legum allegoriae*, findet sich keine einzige homiletische Peroratio; hingegen besitzen wir deutlich beabsichtigte, kunstgerechte Schlüsse in denjenigen philonischen Schriften, die einen synthetisch-homiletischen Charakter tragen (*De posteritate Caini*, *De ebrietate*, *De confusione linguarum*, u. a.). Haben wir somit ausgebildete homiletische Schlüsse in den Auslegungsmidraschim, dann ist es einleuchtend, dass wir nach ihren Quellen in den homiletischen Midraschim suchen müssen. Das vorausgesetzt, wenden wir uns den einschlägigen Stellen in den Auslegungsmidraschim zu.

An der Spitze dieser Midraschim steht *Bereschith rabba*. Die Zahl der messianischen Schlussformeln ist hier verhältnismässig nicht gering.<sup>7</sup> Die Schlussformeln stehen nicht immer am Schlusse des Abschnittes. Es kommt auch vor, dass die gleichen messianischen Aussprüche in der Mitte eines Abschnittes und am Schlusse eines anderen Abschnittes sich finden. Da *die messianischen Schlüsse im Midrasch Bereschith rabba durchgehends exegetischen Charakter haben*, ist es klar, dass in diesem Falle der ursprünglich rein exegetischer Ausspruch, der in der Mitte eines

<sup>6</sup> Den Gegensatz zu *לעיל* bildet *לעיל*, z. B. *Sifre Num.* 92.

<sup>7</sup> *Parascha* 2; 5,7; 6,6; 14,5; 26,2,6; 34; 35; 38; 44; 45,9; 62; 64,3; 65; 78,14; 87; 88; 92; 95,3; 100.

Abschnittes steht, erst später als Schlussformel verwertet wurde. So dürfte es sich verhalten mit der Schlussformel Par. 2 = 65 = 56, 10 = 69, 7. In den letzteren zwei Stellen haben wir reine Exegese vor uns, in den ersteren hingegen eine Anwendung des exegetischen, messianischen Ausspruches als Schlussformel, wobei der Gegensatz der Äonen (עוה"ז—ל"על) nur implicite enthalten ist. Vergleicht man diese Stellen mit der parallelen im Midrasch Tanchuma, dann tritt der Unterschied zwischen der unausgebildeten Schlussformel und der formgerechten Peroratio klar zutage.

Tanch. ed. Buber ויצא 9

Ber. r. 65<sup>8</sup>

בה"מ בנוי וחרב ובנוי

בה"מ בנוי וחרב ובנוי

...

...

בנוי ומשוכלל ל"על כענין שנאמר . . . אמר הקב"ה אתם ראיתם אותו חרב בעה"ז, אבל לעולם הבא אני בונה אותו בעצמי ואני בכבודי חוזר לחוכו, ואתם רואים שנאמר . . .

Ohne uns auf die für unsere Frage unwichtigen Textabweichungen einzulassen, können wir hier drei Stufen feststellen: (1) Reine Exegese, (2) Anwendung als Schlussformel, und (3) Erweiterung zur ausgebildeten Peroratio.<sup>9</sup>

Eine antithesis implicita liegt auch im Schlusse der Parascha 35 und 38 vor. An letzterer Stelle vermissen wir selbst den Ausdruck עוה"ז—ל"על, bzw. עוה"ז—עוה"ב, wie es in Ber. r. durchgehends lautet.<sup>10</sup>

Besondere Beachtung verdient die P. der Parascha 88, die mit dem erhabenen Gedanken der Völkerversöhnung schliesst: . . . שיהיו כל העמים לאנודה אחת שנאמר . . . Wie in den angeführten Beispielen ist die Antithese auch hier bloss angedeutet. Das scheint für ein hohes Alter dieser Peroratio zu sprechen. Dieser Umstand hat besonderes Gewicht angesichts der Unsicherheit der

<sup>8</sup> S. Sifre Deut. 352 (ed. Friedmann 145b).

<sup>9</sup> Ähnlich verhält sich Par. 45,9 zu 62 (Ende). בעוה"ז ישכון אבל לעיל נפל ist noch exegetisch zu fassen, wie Par. 98,7. בעוה"ז כרע, שכב לעיל. Die Exegese ist Par. 62 als Schlussformel verwendet.

<sup>10</sup> Dagegen Par. 44 לימות המשיח. Hier homiletischer Schluss. Das folgende bildet den Übergang zu Par. 45. So z. B. auch Ende Par. 47.



handschriftlichen Überlieferung.<sup>11</sup> Die Peroratio ist kunstgerecht aufgebaut. Elf mal erscheint die Anaphora מחכה מי היה und zwei mal epiphorisch die Antwort הקדוש ברוך הוא. Die Epiphora muss natürlich gleichfalls elf mal wiederholt werden. Somit lautete die symplocische (Symploce = Anaphora + Epiphora) Peroratio folgendermassen:

1. מי היה מחכה לאברהם ושרה שהיו זקנים, שילד להם בן? [הקב"ה].
2. מי [היה] מחכה ליעקב שעבר במקלו הירדן, שיפרוץ ויעשיר? [הקב"ה].
3. מי היה מחכה ליוסף שעברו עליו כל הצרות האלו, שיהיה מלך? [הקב"ה].
4. מי היה מחכה למשה שהושלך ליאור, שיהיה \* \* \*<sup>12</sup>? [הקב"ה].
5. מי [היה] מחכה לרות שהיתה גרה, שחזרה למלכות ישראל? [הקב"ה].
6. מי [היה] מחכה לדוד, שיהיה מלך . . . ? [הקב"ה].
7. מי [היה] מחכה ליהויכין . . . ? [הקב"ה].
8. מי [היה] מחכה לחנניה . . . ? [הקב"ה].
9. מי [היה] מחכה לישראל בימי המן, שיצילם? הקב"ה.
10. מי [היה] מחכה לגליות . . . ? [הקב"ה].
11. מי [היה] מחכה לסוכת דוד הנופלת, שיקימנה? הקב"ה<sup>13</sup>. שנאמר . . .

Wir werden noch unten Gelegenheit haben, derartige rhetorische P., die in einen erweiterten eschatologischen Schluss ausklingen, kennen zu lernen. Durch die Hinzufügung neuer rhetorischer Mittel, die sich gleichsam zu einer homiletischen Tropologie nach dem Muster der griechischen Wanderpredigt (Diatrobe) herausgebildet hatte, sollte sich die jüdische Predigt noch feierlicher gestalten.

In den besprochenen Beispielen aus Ber. r. ist die messianische Antithese durch keine bestimmte Formel zum Ausdruck gebracht.

<sup>11</sup> Vgl. die Theodor-Albeck'sche Ausgabe. Die Echtheit der P. vertritt Maybaum, *Die ältesten Phasen in der Entwicklung der jüdischen Predigt*, S. 10 gegen Zunz und Lerner.

<sup>12</sup> Die Lesart כמו שנהיה scheint mir nicht ursprünglich zu sein. Man erwartet ein bestimmtes Prädikat, etwa: רבן של ישראל. Die Worte כמו שנהיה sind wahrscheinlich eine spätere Ergänzung an Stelle des ausgefallenen Prädikats.

<sup>13</sup> Das Fehlen der Epiphora zu 1–8 und 10 erklärt sich dadurch, dass der Abschreiber nicht ahnte eine rhetorische Figur vor sich zu haben, und das הקב"ה nur dort zurückliess, wo es sich mit dem Zeitwort unmittelbar verknüpfen lässt. Daher: (9) שיצילם הקב"ה und (11) שיקימנה הקב"ה.—Von 6 bis 10 sind wohl die Relativsätze vom Abschreiber unterdrückt worden.—Nach 11 wäre als 12. Satz zu rekonstruieren: ומי היה מחכה שיהיו כל העולם לאנודה אחת? והקב"ה? שנאמר . . . Vgl. מתנות כהונה z. St.

Deswegen sind zwei Stellen von Interesse, in denen die Antithese durch die Formel *לפי שבועה*—אבל לעיל eine klare Prägung erfahren hat. Beide Stellen kommen in einer Parascha vor (Par. 26), und zwar steht keine von ihnen am Schluss der Parascha. Diese Formel ist, wie wir noch sehen werden, im Talmud nicht unbekannt. Überdies sind beide Stellen wahrscheinlich einem homiletischen Midrasch entnommen.<sup>14</sup>

Es bleiben noch zu besprechen die einzigen zwei vollen messianischen Schlüsse Par. 95, 3: *א"ל הקב"ה אחה למדת בניך תורה* und Par. 100 *א"ל הקב"ה בעוה"ז* und Par. 100 *א"ל הקב"ה בעוה"ב*. . . . שנאמר . . . נצטערתם עם הצדיק, בעוה"ב. Diese Schlüsse stammen aber aus dem Tanchuma,<sup>15</sup> da bekanntlich die letzten Abschnitte des Ber. r., insbesondere die sogenannte *שיטה חדשה*, im Tanch. wurzeln.<sup>16</sup> Diese späteren Zusätze haben mit dem eigentlichen Ber. r. nicht viel gemein.

Die antithetische Peroratio, die mit *אמר הקב"ה* anhebt, können wir kurz als die *theophore P.* bezeichnen. Sie ist eine *Eigentümlichkeit der homiletischen Midraschim*. Inwiefern sie aber in den analytischen M. vorkommt, ist sie jenen entnommen. Diese Behauptung wird bestärkt durch die Wahrnehmung, die wir am Midrasch Bereschith rabba gemacht haben. Aber auch Midrasch *Schemoth rabba* liefert einen Beweis für die Richtigkeit dieser Behauptung. Es ist sicher kein Zufall, dass wir in den Par. 1–14, also in den alten, aus einem analytischen Midrasch stammenden Partien, keine einzige theophore P. finden.<sup>17</sup> In Ber. r. sahen wir,

<sup>14</sup> Die Stellen lauten a. *לפי שבועה* פרעה בשעתו . . . אבל לעיל עושה מלאך המות . . . סטטיונר שלהם הה"ד Ber. r. 26,2,6. Dazu vgl. Buber zu Tanch. שלח Nachtrag 1, Anm. 1 u. 18.—b. . . . *לפי שבועה* הרוח היא נבזקת באחד מאבריו אבל לעיל . . . ib. 26. Stil und Bau dieser Aussprüche zeigen, dass wir keine ursprüngliche Exegese vor uns haben, obgleich sie mit Exegese in Zusammenhang gebracht werden.

<sup>15</sup> Vgl. Tanch. ed. Buber ויחי 12 und ויחי 18.

<sup>16</sup> In der *שיטה חדשה* findet sich eben die letztere P., während die erstere in der Par. 95 vorkommt, die aber durch eine entsprechende ältere aus dem Codex Vaticanus Hebr. 30 zu ersetzen ist. S. Theodor in der *Guttmann Festschrift* S. 148ff. und jetzt die Theodor-Albeck'sche Ausgabe. Übrigens ist die Peroratio, die wir Ber. r. 95,3 lesen im Yalkuṭ Yes. 479 aus "Yelamdenu" angeführt.

<sup>17</sup> Messianische Schlussformeln: 5,12; 9 (keine eigentliche P.) u. 14,3.

wie die P. aus dem Tanchuma eingedrungen ist; in Schemoth r. haben wir eine entgegengesetzte Erscheinung vor uns. Die zwei einzigen in den Par. 1–14 enthaltenen Perorationen wurden in den Tanchuma aufgenommen, umgearbeitet und erweitert. Dass Schemoth r. die ursprüngliche Form gibt, bedarf keines weiteren Beweises.

## Tanch. Buber שמות 26

## Schemoth r. 5,12

בכמה מקומות שנינו שחלק הקב"ה  
כבוד לוקנים, בסנה . . . בסני . . .  
אמר הקב"ה בעוה"ז חולקים  
באוהל מועד . . . ולעל כמו כן  
לם כבוד שנאמר ונגד זקניו כבוד.  
להם כבוד לוקנים ואף לעל אני חולק

Aus dem schlichten <sup>18</sup>יולעל כמו כן ist eine regelrechte P. mit theophorem Anfang entstanden.

Ähnlich verhält es sich mit der zweiten P.

## Tanch. Buber בא 15

## Schemoth r. 14,3

וכן לעל יביא הקב"ה חשך על  
העכו"ם ויאיר לישראל שנאמר כי  
הנה החשך יכסה ארץ.  
אמר להם [הקב"ה] חייכם לעוה"ב  
אני מחשיך להם ומאיר לכם שנאמר  
כי הנה החשך יכסה ארץ.<sup>19</sup>

Die Midraschim zu den fünf Megilloth bringen nichts neues. So hat Midr. Ruth r. gar keine P., Midr. Echa rabbati nur eine, und zwar ohne ausgeführte Antithese (Peticha 34). Bloss Antithesen, auch in der Form לפי שבעוה"ז enthalten die einschlägigen Stellen in Schir ha-Schirim r.<sup>20</sup> Dasselbe gilt von Koheleth r.<sup>21</sup> Das theophore אמר הקב"ה ist ganz vereinzelt. Bemerkenswert ist, dass der Gegensatz der Äonen auch durch die Antithese: Israel—"Völker der Welt" ersetzt wird,<sup>22</sup> eine Erscheinung, der wir noch in den homiletischen Midraschim begegnen werden.

<sup>18</sup> Entspricht Sifre Num. 92: . . . מנין שאף לע"ל כן המקום חולק כבוד לוקנים שנאמר . . .

<sup>19</sup> Nach Hs. Oxford. Vgl. Buber z. St.

= Par. 1,3; 3,8; 4 u. 5 (לפי שבעוה"ז); 6,11.

<sup>21</sup> Par. 1,4,4 (לפי שבעוה"ז) = Schir ha-Schirim r. 5), 5; 2,1 (לפי שבעוה"ז); 4,1 (לפי שבעוה"ז) + אמר הקב"ה).

= Par. 9,6 אבל ישראל. Vgl. z. B. Pesikta de R. Kahana 7 (Ende).

Midr. Esther r. enthält ausser einer sehr oft wiederkehrenden P.<sup>23</sup> auch einen üblichen Schalom-Schluss.<sup>24</sup>

Wir gehen nunmehr zu den homiletischen Midraschim über, an deren Spitze Pesikta de Rab Kahana steht.<sup>25</sup> Das Material fließt hier noch spärlich.<sup>26</sup> Bemerkenswert ist das Bestreben, durch Hineintragen logischer Kategorien die Peroratio mannigfaltig zu gestalten. So hat Piska 1 eine P. in der Form einer logischen Deduktion: ומה אם העולות שנדבקו באהל מועד נותן להם חיוה . . . ישראל שהן דבקיין בהקב"ה על אחת כמה וכמה שנאמר . . . Diese *deduktive* P. scheint grossen Anklang gefunden zu haben, daher wurde sie auch in den anderen Midraschim (vgl. Buber z. St.) freilich in variierter Fassung, nachgeahmt.

Eine andere, theophore, P. ist hypothetisch gehalten. So Piska 11 (= Tanch. Buber ראה 17): אמר הקב"ה אני אמרתי: שחתה משמח את שלך ואת שלי . . . אם עשית כך, אף אני משמח את שלך . . . ואת שלי . . . בבית הבחירה . . . שנאמר . . . in der Pesikta de Rab Kahana überhaupt kurz gefasst und bleibt diesbezüglich auf der Stufe der analytischen Midraschim.

Der Pesikta de R. K. am engsten verwandt ist Midrasch *Wajikra rabba*. Wenn aber Strack<sup>27</sup> bemerkt: "auch in bezug auf die Schlussformel sind sie (scil. W. r. und Pes. de R. K.) einander ähnlich", so verlangt diese Behauptung eine gewisse

<sup>23</sup> Par. 2. לפי שבעה'ז' אמר הקב"ה. Der Topos vom ארגיטטים רוח, der im künftigen Äon wehen wird, kehrt in der Agada oftmals wieder. Vgl. Schir ha-Schirim r. 4 u. a. m.

<sup>24</sup> Par. 9. Siehe z. B. Mischna Edujoth VIII, Ukzin und Tamid. Zum Schalom-Schluss wäre noch zu vergleichen Philo De post. Caini (Ende) βαθείας δὲ εἰρήνης χρῆσις καὶ ἀπόλαυσις σχήσει τὸ ἀνθρώπων γένος κτλ. De decalogo (Ende) ὁ μὲν θεὸς πρύτανις εἰρήνης κτλ. Die Stellen schliessen die angeführten philonischen Schriften ab.

<sup>25</sup> Von der messianischen Piska 29 ist hier abgesehen. Diese Piska enthält viele messianische Elemente auch in der Form von Antithesen. Sie ist aber späteren Ursprungs und gehört eigentlich nicht in die Pesikta-Sammlung.

<sup>26</sup> Stellen: Piska 1; 2 (18b ed. Buber u. 20b, wo החחיל משבח den eigentlichen Schluss bildet, vgl. Schluss Piska 6); 3; 4 (לפי שבעה'ז'); 5 (לפי שבעה'ז'); 6; 7; 8; 9; 11; 12 (107a u. 110b); 13; 18; 21 (145a); 23; 28; 30; 32.

<sup>27</sup> H. L. Strack, *Einleitung in Talmud und Midraš* 5, 204. Strack stützt sich auf Lauterbach *Jewish Encyclop.* XII, 479; The end of each parashah in the former work (i. e., W. r.) in analogy with the usage followed in the Pesikta (de R. K.), consists of a passage containing a Messianic prophecy.

Einschränkung. Was die formgerechte P. mindestens anlangt, zeichnet sich W. r. von allen anderen Midraschim dadurch aus, dass die P. in W. r. in der Regel mit *לפי שבעוה"ז* *anhebt*,<sup>28</sup> während in anderen Midraschim, auch in der Pesikta de R. K., dieser Anfang nur vereinzelt vorkommt. Selbst dort, wo sich die Schlussformeln in den beiden Midraschim decken—was jedoch selten der Fall ist—wird ihnen in W. r. das *לפי שבעוה"ז* vorausgeschickt. Ein Beispiel:

Wajikra r. 1,14

P. de R. K. 12 (107a)

בעוה"ז נתתי לכם את התורה והיו  
יחידיו יועין בה, אבל ל'על אני  
לפי שבעוה"ז שכינה נגלית  
על היחידים אבל ל'על...<sup>29</sup>  
מלמדה לכל ישראל.

Es folgt der Schalom-Topos. Das *לפי שבעוה"ז* fehlt in W. r. auch dort nicht, wo die P. bereits mit dem theophoren *אמר הקב"ה* eingeleitet wurde: *אמר הקב"ה לפי שבעוה"ז היין תקלה* (Par. 12). Besonders lehrreich ist Par. 33. Hier haben wir eine *doppelte Häufung*, sowohl der Formeln als der Antithesen. Wir können in solchen Fällen von einer *kontaminierten Peroratio* sprechen:

Wajikra r. 33

Pes. de R. K. 2 (18b)

(a) לפי שבעוה"ז ישראל משועבדין  
לאו"ה ול'על...  
(b) לפי שבעוה"ז או"ה מונין  
לישראל אבל ל'על אמר הקב"ה...  
בעוה"ז היו בני אדם מונין אחכם,  
אבל ל'על אני מברך אחכם שנאמר...

Die kontaminierte P. in W. r. besteht somit aus zwei messianischen Antithesen, von denen eine jede ganz selbständig auftreten kann. So bilden (a) und (b) in W. r. 33 eine Kontamination. Ausserdem haben wir in (b) die Formel *לפי שבעוה"ז* und das Theophoron (*אמר הקב"ה*), während die Pesikta keine von diesen Formeln bringt. In bezug auf die P. unterscheidet sich also der Midr. Wajikra r. auch durch die *Vorliebe für die Akkumulation* von abschliessenden Formeln.

<sup>28</sup> Schlussformeln mit *לפי שבעוה"ז*: Par. 1,14; 9,6; 12; 14 u. 14,9; 15; 25; 32; 33; 35. Andere messianische Schlüsse 3; 6; 7; 9; 10; 11; 13; 22; 30; 31; 37.

<sup>29</sup> Hingegen in beiden Midr. *לפי שבעוה"ז* W. r. 15 u. P. d. R. K. 4.



Über die *לפי שבועה* Formel selbst darf man vielleicht die Vermutung aussprechen, dass sie von Haus aus der altjüdischen Homiletik angehört. Schon der Ausdruck *לפי ש* an sich scheint auf einen grösseren Zusammenhang hinzuweisen, der dem agadischen, messianischen Ausspruch voranging. Die Worte *לפי ש* konnten den gewünschten Übergang schaffen von der eigentlichen Predigt zur Peroratio. Verschiedene Anzeichen—man berücksichtige vor allen Dingen den Inhalt der *לפי שבועה*-Aussprüche—lassen somit auf einen homiletischen Ursprung dieser Formel schliessen. Damit stimmt gut der Umstand überein, dass diese Formel im Talmud äusserst selten,<sup>30</sup> in den analytischen Midraschim vereinzelt ist, hingegen in den homiletischen Midraschim des öfteren erscheint. In W. r. ist sie vorherrschend und gesellt sich auch anderen Formeln zu. Für die midraschische Quellenkritik ist diese Tatsache nicht ohne Bedeutung.

Wir wenden uns dem Tanchuma zu. Eine eingehendere Untersuchung der P. im Tanchuma wird eine besondere Behandlung der Midraschim Shemoth r. 15–52 (über 1–14 siehe oben s. 359f.)<sup>31</sup> und Bamidbar r.<sup>32</sup> überflüssig machen, da jener zum grossen Teil, dieser fast ausschliesslich aus dem Tanchuma geschöpft hat. Der Tanchuma, namentlich editio Buber,<sup>33</sup> bietet eine Fülle von Formen, von der einfachen bis zur mannigfach komplizierten Peroratio. Mit Ausnahme der *לפי שבועה* Formel, die im Tanchuma fast unbekannt ist, begegnen wir hier den verschiedensten Typen der P., wobei das *Theophoron* (אמר הקב"ה) *entschieden vorherrschend bleibt*.<sup>34</sup> Wie die tröstende P., wurde auch das

<sup>30</sup> Vgl. z. B. Talm. Yeruschalmi Schekalim VI, 2; Taanith I, 2.

<sup>31</sup> Par. 15; 17,4; 18,5,7,11; 19,6; 20,18; 23 u. 23,11; 24; 25,3,7; 26; 29; 30 (Contaminatio); 31,5; 32; 40; 41; 48,4; 50; 51; 52.

<sup>32</sup> Par. 1,3; 5; 7; 9; 15 u. 15,2; 16,10; 16,11; 17; 20; 26.

<sup>33</sup> Im folgenden bezeichnen wir editio Buber: T B und die vor Buber bekannte Ausgabe: T.

<sup>34</sup> T B בראשית 18 (T 6); 25; 32; 40. נח 1; 12; 17 (=T 11); 21; 28 u. T 13 u. 19. T B לך לך 5 (=T 4); 12 (=T 9); 19 (=T 15); 27. וירא 5; 15; 29; 38; 46. שרה 10 u. T 8. תולדות 6; 11; 17; 19 u. T 13. 9 ויצא 9; 20; 24. 30 וישלח 30 u. T 4; 9; 10. 7 וישב 7. 4 מקץ 4; 17; 19 u. T 13. 3 וינש 3; 12 (=T 11) u. T 5. 7 ויחי 7 (=T 3); 18 (=T 17).—T B שמות 21 (=T 24); 26. וזאב 5; 10 (=T 10); 15 (=T 13); 22 (=T 17). בא 15 (=T 4); 19. בשלח 14; 24. יתרו 13; 17 u. T 17. 4 משפטים 4 (=T 5); 9 (=T 16); 12 (=T 18) u. T 9. תרומה 4 (=T 5); 7 (=T 9); 9 (=T 9 Ende) u. T 11.

Theophoron (יחוד השם) in Zusammenhang mit den דברי נחמות auf Mose und die Propheten zurückgeführt. והעולם... אמר הקב"ה הואיל... שמחים איחד שמי שנאמר... וכן ירמיה בשעה שהיה מתנבא דברי נחמות היה מ' יחד שמו שנאמר כה אמר ה' זכרתי לך חסד נעורך, כן משה... (Yalkuṭ שופטים 62).<sup>35</sup>

Wir beginnen mit der einfachen P. Ein stereotypes אימתי, oder באותה שעה bildet den Übergang zur eigentlichen P. (T B אימתי אנו צריכין לומר לפניך שירה? לעז'ב שנאמר... ואימתי מראה הקב"ה לישראל הברכה הזאת? כשיבנה (32 בראשית) ירושלים... שנאמר... (4 תבא T).

Ein Übergang mit באותה שעה נאמר. שירה שנאמר... : באותה שעה (17 מקץ T B).

Gewöhnlich wird das באותה שעה entsprechend vorbereitet, z. B.:... באותה שעה<sup>36</sup>... (5 בחקתי T B) ומתוך כך הן עושין תשובה.

Seltener sind andere Übergangsformeln, wie die *deductive* und die *comparative*. Hierfür folgende zwei Beispiele: והלא דברים ק"ו, ומה חקלה שבאה על ידי צדיקים היתה מחיה לכל העולם, זכות וכשם שלא פים (13<sup>36a</sup> מקץ T B) שיביא הקב"ה על ידיהם עאכו"כ

6 (=T 4.8); 10 (=T 13) u. T 15. 8; 13 (=T 19); 16 (=T 27); 20 (=T 37) u. T 13; 32. 6 ויקהל (=T 5); 11 (=T 10). 5 פקודי (=T 8); 8 u. T 9; 11.—T B ויקרא 6 (=T 4); 12 (=T 6); 18 (=T 7). 5 צו (=T 3); 10 (=T 7); 16 (=T 12). 6 שמיני (=T 4); 9 (=T 5) 14 (=T 6). 12 תזריע (=T 9); 16 (=T 11). 9 מצורע. 17 (=T 9); 18. 13 אחרי. 18 (=T 12). 5 קדושים (=T 5); 6; 14; 15 (=T 15) u. T 7. 16 אמור. 23; 30 (=T 22); 32 (=T 24) u. T 3. 4 בהר (=T 1). 5 בחקתי (=T 3); 8 (=T 6).—T B במדבר 3 (=T 3); 16 (=T 14); 20; 33 (=T 26). 13 נשא (=T 7); 29 (=T 18.27); 34 (=T 30). 2 בהעלתך (=T 2); 4 (=T 3); 12 (=T 6); 13 (=T 18); 19 (=T 10); 28 (=T 16). 11 שלח (=T 7); 31 (=T 15)+21 (Zusatz). 27 קרח (=T 11). 11 חקת (=T 11); 28; 55 (=T 25)+1 (Zus.). 30 בלק (=T 21). 12 פנחס (=T 13). 10 מסעי.—T B דברים 3 (=T 3)+6+10 (Zus.). 2 ואחחנן (Zus.). 6 עקב (=T 3) u. T 7; 11. 3 ראה (=T 9); 17 (=T 18)+1 (Zus.) u. T 4; 6. 4 תבא.—Die Yelamdenu(?)—Fragmente gesammelt von Grünhut (ספר הלקושים) und Ginzburg (גניזת) enthalten einige P., die aber für unsere Frage nicht von Interesse sind.

<sup>35</sup> Stammt aus Yelamdenu. S. Grünhut לקושים V 89b.

<sup>36</sup> Vgl. noch T B עקב 7 u. T B ראה 3.

<sup>36a</sup> Auffallend ist die deduktive Form der *Abschiedsrede*, die sämtliche erhaltenen Reden (Ber. r. 60, 7; 69, Ende; Wajikra r. 4,20; Jer. Talmud Sota I 7) aufweisen. Es ist sicherlich kein Zufall, dass diese Reden die Form אחת כמה וכמה... על... haben. Dieser Umstand hat Levy (*Wörterbuch über die Talmudim und Midraschim* s. v. אפטר) dazu verleitet, eine griechische Etymologie (ἐπιτεῶρησις) anzunehmen. Übrigens stützte sich

יוסף את אחיו אלא מתוך בכיה, כך כשיגאל הקב"ה ישראל מתוך בכיה הוא וכשם ש... und. והלא דברים ק"ו (5 ויגש T) גואלם שנאמר... sind hier Überleitungsformeln. Der blosser Schluss würde somit lauten: ואף וואף ל"על יביא הקב"ה מחיה לכל העולם בזכות הצדיקים... ואף ל"על כשיגאל הקב"ה את ישראל מתוך בכיה הוא גואלם שנאמר... Trotz dieser Überleitungsformeln ist der homiletische Schluss in diesen Fällen noch sehr einfach.

Es sei noch zu erwähnen die ebenfalls einfache lyrische Schlussformel mit אשרי הם הצדיקים, שבכל מקום שהן: אשרי הם oder אשריכם הולכים הקב"ה משמרן שנאמר... (29 וירא T B) (ib. 46)<sup>37</sup>... שנאמר... Diese lyrische Schlussformel scheint bereits in tannaitischer Zeit üblich gewesen zu sein.<sup>38</sup>

Die Zahl der einfachen Schlussformeln ist jedoch im Vergleich zu den ausgebildeten *theophorisch-antithetischen* Schlüssen im Tanchuma unbedeutend. Es kommt auch vor, dass auf die Antithese eine einfache Schlussformel folgt. Wir haben dann eine *zusammengesetzte Peroratio*<sup>39</sup> vor uns. Die Zusammensetzung findet auch auf andere Weise statt. Folgende Beispiele werden den Sachverhalt veranschaulichen.

Levy auf den Aruch (*Aruch musaf*. Kohut I 262a פ' ראיה מופתית). In den aufgeführten Stellen ist aber eine Anspielung auf Gastfreundschaft unverkennbar. Vielleicht ist die *deductio a minore in maius* (קל וחומר) deswegen gewählt, weil die in dieser Form enthaltene Steigerung (*gradatis*) dem Zwecke der Lobrede (*laudatio*) am besten entspricht. In unserem Falle ist es der Preis der Gastfreundschaft. Wie man sich Jer. Sota I 7 als Abschiedsrede zu denken hat (vgl. קרבן העדה z. St.), lehrt Ber. r. 69, Ende.

Die Auffassung Maybaums, *Die ältesten Phasen in der Entwicklung der jüdischen Predigt* 9, 4, wonach אפסרה *Epilog* einer Predigt bedeutet, scheint mir ganz verfehlt. Maybaum hat sich von מחנות כהונה Ber. r. 60 (אפסרה) irre führen lassen. Vgl. auch W. Bacher, *Terminologie der Amoräer* 14 f.

<sup>37</sup> Vgl. auch Wajikra r. Par. 3... אשרי אדם שיש בו דברי תורה.

<sup>38</sup> Mit אשריכם ישראל schliesst Tosephta Korbanoth II. אמר ר' עקיבא ישראל ist offenbar eine Anlehnung an den Schluss der Mischna Yoma אשריכם ישראל לפני מי אתם משהרין... שנאמר...

<sup>39</sup> Die *kontaminierte* P. unterscheidet sich von der *zusammengesetzten* darin, dass sie aus Teilen besteht, von denen ein jeder für sich eine P. bilden kann. Übrigens wird zwischen der *Contaminatio* und der *Zusammensetzung* nicht immer scharf getrennt.

1. Antithesis+אימתי: אבל ישראל אימתי וחוטאין, או"ה מוסיפין וחוטאין, תם עונך בת ציון, אימתי, כשיפקוד על בת אדום שנאמר... (22 ורא T B)

2. Antithesis+שעה: באותה שעה: כל אלו אינן חשובין: באותה שעה... (3 דברים vgl. 3 ראה T B)

3. Comparatio+deductio: בשביל [מה בני קהת] כשכיל: שיראו אותי חלקתי להם כבוד, כך כל מי שהוא מתירא ממני... ממי את למד מיונדב בן רכב... ומה אם אותם שהיו גרים... ישראל עאכו"כ שנאמר... (33 במדבר T B)

4. Antithesis+אלא: ולא עוד אלא: ולא עוד אלא... אני נולה בכבודי על כל ישראל... וחיים לעולם, ולא עוד אלא מראים את כבודי זה לזה באצבע ואומרים... ואומר... (20 במדבר T B) Die P. bekommt auch dadurch einen zusammengesetzten Charakter, dass

5. mehrere Antithesen anaphorisch aneinander gereiht werden: ... הבאתי ענן... לי יריעות עזים... עשיתם לפני כפרת... אני מכפר לכם עשיתם לפני ארון... חייכם... (11 ויקהל T B)<sup>40</sup>

Diese P. zeichnet sich durch das *Wortspiel* (כפרת-כפר) aus. Das Wortspiel scheint eins der rhetorischen Mittel gewesen zu sein, deren man sich in der die Predigt abschliessenden P. gerne bediente. Eine wohlklingend austönende rednerische Figur konnte in der Peroratio den Eindruck auf die Hörer nicht verfehlen. Gebrauchten doch die Rhetoren des Altertums mannigfache rhythmische Klauseln, um dem Redeschluss einen besonderen Wohlklang zu verleihen. Die angeführte P. ist nicht die einzige, in der das Wortspiel zur Anwendung gelangt. So z. B. T B בחקותי 8: אתכם מציל אני מן הער כי אני מציל אתכם und T B במדבר 16: עשיתי אתכם ויהנם... דגלים... ולעוה"ב בזכות הדגלים אני מדלג וגואל אתכם שנאמר... קול דודי הנה זה בא מדלג על ההרים...

<sup>40</sup> Die Antithese ישראל—או"ה wurde bereits besprochen. Dieselbe Antithese auch T B 19; חוריע 16. צדיקים—רשעים T B בהעלתך 13. Eine zweifache Antithese: T עוה"ז—עוה"ב+או"ה—ישראל 6.

<sup>41</sup> Siehe auch T B יחור 13 u. תצה 6.

<sup>42</sup> Vgl. Schemoth r. Par. 50. Der Redaktor dieses Midr. verstand das Wortspiel: ארון—אור; deswegen änderte er ארון in מנורה. Überdies ist die Zahl der Anaphern vergrößert (5 statt 3). Siehe auch die anaphore P. משפטים 5. T ובאותה שעה... באותה שעה in Zusammenhang mit Ber. r. gehandelt,

Auch die in Midrasch beliebte *Dialogform* kommt manchmal im Schluss der Predigt zur Geltung. Der Dialog kann dem Theophoron (אמר הקב"ה) vorangehen. So verhält es sich in der angeführten P. T B בחקותי 8. Ein Zwiegespräch zwischen Gott und Israel bereitet die P. vor. Das Theophoron kann aber auch zum Dialog gehören, so dass es erst den Dialog zustande bringt. Die P. bildet in diesem Falle den Schluss des Zwiegespräches: eigentlich:) אמרה כנסת ישראל לפני הקב"ה עד מתי יהיה החשך עולם עלינו יהיה העולם חשך עלינו והאור לאוה"ע? אמר הקב"ה . . . חייכם לעוה"ב (T B בא 15) . . . [שנאמר] לכם והאורה לאוה"ה ודאורה לכם.

Diese Stelle ist auch geeignet, den Unterschied zwischen T und T B in der Behandlung der P. zu kennzeichnen. Der Redaktor des T zeigt überhaupt wenig Verständnis für das Wesen der P. Daher kommt es, dass oft auf die P. weitere Partien in demselben Abschnitte folgen, wodurch die P. ihre Bedeutung eigentlich einbüsst. T B hingegen hat in diesen Fällen die P. an richtiger Stelle. Im obigen Beispiel bringt T wiederum bloss das Material für eine P., während T B eine aus diesem Material geformte P. liefert.

## T B בא 15

## T בא 4

אמר הקב"ה חייכם לעוה"ב אני	ורבנן אמרי אוה"ה . . . עליהם הוא
מחשיך להם ומאיר לכם שנאמר . . . <sup>43</sup>	אומר כי הנה החשך יכסה ארץ . . .
	אבל ישראל . . .

T B ist lehrreich für die Art, wie die P. im allgemeinen entstanden ist. Gewisse Aussprüche konnten unbeschadet ihres Inhaltes in die entsprechende Form einer P. umgegossen werden. Der Autor des P.-Gedankens (z. B. die רבנן im obigen Beispiel) wird in der Regel nicht genannt.

Im Tanchuma fanden wir somit die P. am selbständigsten ausgebildet. Durch verschiedene Kombinationen und rhetorische Effektmittel wird sie auf eine Höhe gebracht, die in den anderen Midraschim wesentlich nicht überschritten wird. *Wie לפי אמר הקב"ה—שנאמר für Wajikra r., bleibt שבעוה"ז für den Tanchuma charakteristisch.* Diese theophore P. scheint trotz ihres späten Vorkommens im Tanchuma ein hohes Alter gehabt

<sup>43</sup> Über das Verhältnis von T B בא 15 zu Schemoth r. 14 siehe oben.



zu haben. Ihre Spuren können wir bei Philo verfolgen. Die Schrift *De confusione linguarum*, die eine Predigt über den Turmbau in Babel ist, schliesst mit den Worten: *γράψαντος... θεοῦ τὸ κήρυγμα*, (= *ה' קב"ה נאמר*), *ὡς δηλοῦσιν οἱ χρησμοίεν οἷς διείρηται* (= *נאמר*), *ὅτι..* Es folgt ein entsprechender Bibelvers. Das Schema ist hier somit dem des Midrasch, namentlich des Tanchuma ähnlich.

Ein Vergleich mit der jüdisch-alexandrinischen Predigt, deren Hauptvertreter für uns Philo ist, kann auch für die *Pesikta rabbati* vonnutzen sein. In diesem Midrasch kommen verschiedene Formen der P. promiscue vor.<sup>44</sup> Von einem besonderen Typus der P. kann hier nicht die Rede sein. Beachtenswert ist aber der Umstand, dass einige Piska's<sup>45</sup> mit einem messianischen Gebet schliessen. Diese Art des agadischen Schlusses ist uns auch anderswoher bekannt.<sup>46</sup> Dasselbe finden wir bei Philo. Dem Gebete geht eine Aufforderung zum Gebete (*εὐχόμεθα, εὐξόμεθα*) voran. Die Predigt *De ebrietate* schliesst: *εὐχόμεθα... τὸν πάντα ἔλεω ποτινόμενοι θεόν*.<sup>47</sup> Ebenso *Legum allegoriae* III 104: *καλὴν καὶ ἄρμοττουσαν εὐχὴν εὐξόμεθα*.<sup>48</sup>

Es besteht aber ein sachlicher Unterschied zwischen der P. bei Philo und im Midrasch. Die P. enthält nämlich bei Philo, wie in der kynisch-stoischen Diatribe, eine Zusammenfassung des besprochenen Themas (*De ebrietate*, *De confusione linguarum*), während das im Midrasch nur selten geschieht. Hier ist die P. meistens lose angehängt. Die P. ist im Midrasch selbständig. Manche messianische Antithesen sind im Laufe der Zeit Gemein-

<sup>44</sup> Stellen: Piska 5; 8,1; 9; 13; 14; 15; 17; 22; 27; 28; 33; 37; 42.

<sup>45</sup> Piska 9; 27 u. 28. Vgl. Weiss דור דור ודורש III 284 und 285, 18.

<sup>46</sup> Vgl. z. B. den Schluss der Masecheth Derech Erez. Jedoch scheint der Schluss, vielleicht gar der ganze letzte Abschnitt dieses Traktates, späterer Zusatz zu sein. S. Zunz, *Gottesdienstliche Vorträge* 112.

<sup>47</sup> Man könnte sogar versucht sein, den Ausdruck *ποτινᾶσθαι θεόν* der Apostrophe *רבונו של עולם* (z. B. Piska 9 . . . רבש"ע בנה ביהך) gleichzusetzen. *ποτινᾶσθαι* heisst ja: die Gottheit als herrschend (*πότνια* also mit *רבון* begriffsverwandt) anrufen. Über das hohe Alter der Gebet-formel *רבש"ע* siehe G. Dalman, *Die Worte Jesu* S. 142.

<sup>48</sup> Dazu vgl. J. Freudenthal, *Flavius Josephus beigelegte Schrift Über die Herrschaft der Vernunft* S. 183f. Andere Beispiele: *Quod deterior potiori insidiatur* 146; *De migratione Abrahami* 124.

gut der Prediger geworden, so dass sie für verschiedene Homilien in verschiedenen Sammlungen als Schluss dienten.<sup>49</sup> Eine solche Lostrennung der P. von der ursprünglichen Predigt barg die Gefahr in sich, dass jene zur stereotypen Formel herabsinken wird. Das geschah denn auch in späteren Zeiten, jedoch noch nicht in den älteren Midrasch-Sammlungen, die uns hier beschäftigen. Bei Philo beugte dieser Gefahr der Stereotypisierung die in der Diatribe befolgte Regel vor, dass der Schluss mit dem Thema in enger Verbindung bleiben muss.<sup>50</sup>

Indes ist die Tatsache, dass die P. in unseren Midrasch-sammlungen mit dem Thema der Predigten nur selten zusammenhängt,<sup>51</sup> zu einem grossen Teil auf den fragmentarischen Charakter unserer midraschischen Überlieferung zurückzuführen. Es lässt sich nämlich feststellen, dass je besser die Fragmente die ursprünglichen Zusammenhänge wiedergeben, desto enger die P. mit dem homiletischen Thema verbunden ist. Das trifft besonders hinsichtlich des Midrasch *Debarim rabba* zu.<sup>52</sup> Die P. schliesst sich besonderes gut an die Predigt, wenn jener ein Gleichnis vorangeht. Denn dem Midr. Debarim r. ist es eigentümlich, dass gewöhnlich ein Gleichnis den Übergang zur P. schafft. So haben wir in der 3. Parascha drei Homilien, die alle vor der P. ein Gleichnis bringen. Ähnlich verhält es sich mit Par. 2, so dass die Vermutung nahe liegt, dass ursprünglich sämtliche Homilien derselben Quelle vor der P. ein Gleichnis hatten.<sup>53</sup> Hingegen wird

<sup>49</sup> Hier sei nur ein Beispiel angeführt. Der Gedanke, dass im künftigen Äon der böse Trieb seine Herrschaft über das Menschengeschlecht verlieren wird, bildet den Inhalt folgender Schlussformeln: Ber. r. 34. Schemoth r. 41. Bam. r. 17. Deb. r. 2 u. 6. T B בראשית 40. T נח 13; T חולדות 13. T B וישלח 30; T כ"ג 13 (=T 19); T ויקרא 12 (=T 6); T קדושים 14 u. 15 (=T 15); T בהעלותך 19 (=T 10); T שלח 31 (=T 15); T עקב 11.

<sup>50</sup> Vgl. Rud. Bultmann, *Der Stil der Paulinischen Predigt und die kynisch-stoische Diatribe* (Göttingen 1910), 26.

<sup>51</sup> In Pesikta r. wird in mehreren Piska's (4; 7; 10 u. a) der Anfangsvers am Schluss wiederholt, wodurch das Ganze gleichsam eine Abrundung erfährt. S. Weiss III 286, 18.

<sup>52</sup> 1,9,14,20,25; 2,9,24,30; 3,7,12,17; 4,5; 5,7,17; 6,14; 7,12; 8,7; 9,9.

<sup>53</sup> Von r. Meir heisst ■ Sanh. 38b, dass er seine Predigt aus drei Teilen aufzubauen pflegte, aus Halacha (שמעתי), Agada (אגדה) und Gleichnis (מחלי). Diesem Schema entspricht am besten Deb. r. mit seinem halachischen Proömium und parabolischen Schluss.

in diesem Midrasch auf Antithesen wenig Gewicht gelegt. Jedoch kommt auch die Antithese עוה"ז—עוה"ב vor, und zwar nach dem Gleichnis. Z. B. Par. 7 (Ende). Folgender Gedanke wird im Gleichnis entwickelt: Wie die Pflegerin das ihrer Obhut anvertraute Kind, nährte Gott Israel in der Wüste. Darauf folgt die P. לע"ל מנין ... כך ... שבועה<sup>54</sup>.

Ist die Antithese nicht die regelmässige P. in diesem Midrasch, so darf dennoch das Theophoron nicht fehlen, das dem Tanchuma gleich auch hier die P. einleitet. Wie aber für den Tanchuma die *Antithesis*, für Wajikra r. die *Formel* ל פי שבועה<sup>55</sup>, so ist das der P. vorangehende *Gleichnis* für Deb. r. charakteristisch.

Fassen wir die Ergebnisse zusammen. Wir sahen, wie die Peroratio im Laufe der Zeit sich mannigfach gestaltet hatte. Die Verschiedenheiten betreffen sowohl einzelne Formeln, wie באותה שעה, ל פי שבועה<sup>55</sup>, אמר הקב"ה u. a. als auch grundlegende Bestandteile (z. B. die Antithese). Auch inhaltlich unterscheiden sich die homiletischen Schlüsse voneinander (messianische P., allegemeine דברי תחנון, Gebet). Es wurde auch geforscht, wie sich die P. zum Thema der Predigt verhält (zusammenhängende oder selbständige P.). Ferner haben wir festgestellt, dass in der P. zu rhetorischen Kunstmitteln gegriffen wurde, um die Wirkung der ausklingenden P. zu erhöhen (Anaphora, Epiphora, Wortspiel, Gleichnis). Es stellte sich auch heraus, dass gewisse Midraschim bestimmte Eigentümlichkeiten in der Behandlung der P. aufweisen. Dieser Umstand kann ein Kriterium für die Quellenforschung abgeben.

Zum Schluss sei noch auf das von A. Marmorstein<sup>55</sup> angeschnittene Problem hingewiesen. Es handelt sich um das Verhältnis der talmudischen Predigt zu der kynisch-stoischen Diatribe. Auf manche von Marmorstein geistreich behandelte Berührungspunkte dieser zwei Literaturen bin ich schon vor langem aufmerksam geworden. So dürfte es auch anderen klassischen Philologen ergangen sein, die sich mit dem agadischen Schrifttum befassen.

<sup>54</sup> Es sei bemerkt, dass Deb. r. grösstenteils vor שבועה die Fragepartikel מנין hat. Manchmal wird diese Partikel sogar wiederholt. S. z. B. Par. 3 (Ende).

<sup>55</sup> A. Marmorstein, *The Background of the Haggadah*, in *Hebrew Union College Annual* 1929, S. 184ff.

An dieser Stelle wollen wir bloss gewisse auffallende Übereinstimmungen hinsichtlich des Redeschlusses hervorheben. Der Kürze halber werden wir auf die vortreffliche Abhandlung von Rud. Bultmann<sup>56</sup> verweisen, in der ein reiches Material aus der einschlägigen Literatur (Demetrios Phalereus, Bion, Teles, Epiktet, Seneca, u. a.) zusammengebracht wurde. Wie im Midrasch, namentlich im Tanchuma, steht die Antithese in der Diatribe am Schluss der moralischen Erörterung (Bultmann S. 26). Auf die Antithese folgt zur Bekräftigung der Ausführungen ein Zitat aus der klassischen Literatur (S. 44). Dem entspricht in der Agada ein Bibelvers angeführt mit שנאמר, bzw. מניין שנאמר. Die Antithese wird in der Diatribe mit einem Wortspiel verbunden (S. 26). Einige solcher Wortspiele (ארון-אור, דגל-דלג u.a.m.) haben wir in der antithetischen P. im Midrasch gefunden. Auch der in der D. üblichen Aufreihung von Fragen (S. 30) sind wir in Ber. r. begegnet. Auch vom Midrasch können die Worte Bultmanns gelten: "Die Epiphora wird gerne in der Art angewendet, dass auf parallele Fragen gleiche Antworten gegeben werden" (S. 21; siehe auch S. 31). Die in der D. häufigen rhetorischen Figuren, die Anaphora und die Epiphora (S. 21), haben wir im Midrasch wiedergefunden. Diese an der homiletischen P. gemachten Beobachtungen liefern eine Stütze für die Behauptung Marmorsteins, es bestehe eine Verwandtschaft zwischen der jüdischen Predigt und der kynisch-stoischen Wanderpredigt, der Diatribe.

<sup>56</sup> Rud. Bultmann, *Der Stil der Paulinischen Predigt und die kynisch-stoische Diatribe* (Göttingen 1910).





# UNTERSUCHUNGEN ZUR GAONÄISCHEN LITERATUR

V. APTOWITZER, Wien.

## I.

### WAREN DIE SCHEELTOH DES R. ACHA IN BABYLONIEN BEKANNT?

ES ist eine sichere Tatsache, dass die Scheeltoth des R. Acha aus Schabḥa, das erste halachische Werk nach dem Talmud, erst gegen Ende der gaonäischen Epoche von einem Gaon mit Namen erwähnt werden. Früher kennt sie keiner der Geonim, weder die von Sura, noch die von Pumbeditha, der Heimat des R. Acha und wahrscheinlich auch der Scheeltoth.<sup>1</sup>

Ginzberg<sup>2</sup> sucht aus dem angeblich palästinischen Habit der Scheeltoth ihre Entstehung in *Palästina* zu beweisen und führt als äusseren Beweis dafür die Tatsache an, dass sie zuerst von R. Hai erwähnt werden, weil—so erklärt er—*sie früher in Babylonien nicht vorhanden waren und erst zur Zeit R. Hais von Palästina nach Babylonien kamen*, ein Geschenk an Hai von den palästinischen Gelehrten, mit denen er in Korrespondenz stand.<sup>3</sup>

Diese seine These, dass die Scheeltoth, weil erst in Palästina

<sup>1</sup> Vgl. I. N. Epstein *JQR NS* XII. 303.

<sup>2</sup> *Geonica* I. 88.

<sup>3</sup> "These internal proofs of the Palestinian origin of the Sheeltot are strengthened by reasons of an external nature. The most important Halakic product of the Geonic time, the Sheeltot, are yet not mentioned by a single one of the Geonim, excepting only the last of them, Rabbi Hai. The latter has only one reference to Rabbi Aḥa's work, to be found in Harkavy's Collection, 191. But of Rabbi Hai we know, that he was in correspondence with Palestinian scholars, and it is natural to conjecture, that the Sheeltot were brought to his notice through his intercourse with them."

Der Autor des angedeuteten Responsums, *Resp. d. Geonim*, ed. Harkavy, 191, N. 376, ist nicht Hai, wie Ginzberg angibt, sondern *Scherira*, wie das Datum (S. 188 vor N. 372), 1303 Sel. = 992, zeigt. Vgl. auch A. Epstein: הלכות גדולות S. 4; פאמר על ספר הלכות גדולות S. 4; Poznanski, אנשי קירואן, S. 7 und *Studien zur gaonäischen Epoche*, S. 12, Anm. 3.

verfasst, in Babylonien bis zur Zeit Hais unbekannt waren, wiederholt Ginzberg noch an zwei anderen Stellen der *Geonica* I.<sup>4</sup> und zieht aus ihr wichtige Schlüsse, die aber hier nicht erörtert werden sollen. Hier interessiert mich bloss die Frage, ob es wirklich den Tatsachen entspricht, dass das Werk R. Achas bis zur Zeit Hais in Babylonien unbekannt blieb. Eine Prüfung dieser These ist umso notwendiger, als auch Marx<sup>5</sup> und Poznanski<sup>6</sup> die *Geonica* I ausführlich besprechen, diesen Punkt nicht berühren, also Ginzbergs These zustimmen.<sup>7</sup> Auch sonst habe ich das Problem nicht erörtert gefunden.

In Wirklichkeit aber waren die *Scheeltoth* des R. Acha in Babylonien bekannt und sind von den Geonim benützt worden.

1. Zunächst eine bekannte Tatsache. Die *Halachoth Gedoloth* enthalten zahlreiche Stücke, die wörtlich aus den *Scheeltoth* herübergenommen sind und ausserdem noch vier Sätze im Namen R. Achas.<sup>8</sup>

Diese Tatsache ist selbstverständlich Ginzberg nicht unbekannt. Vielmehr setzt er sich mit ihr ausführlich auseinander. Er findet in ihr einen Einwand gegen seine Theorie, dass die *Halachoth Gedoloth* älter sind als die *Scheeltoth* und sucht dieses Argument dadurch zu entkräften, indem er erklärt: die namentlichen Anführungen, die nur zum Teil in den *Scheeltoth* enthalten sind, sind mündliche Mitteilungen R. Achas an R. Jehudai, während die Exzerpte aus den *Scheeltoth* von einem Schüler R. Jehudais in die Hal. Ged. eingefügt wurden.<sup>9</sup>

<sup>4</sup> S. 98: "So that even if the Sheeltot had not remained unknown in Babylonia, being a Palestinian product, they still would have had no influence upon the question of Halakic authorship in Babylonia." S. 106. Vgl. weiter unt. Anm. 9

<sup>5</sup> *Zeitschrift für hebr. Bibliographie*, XIII. 165ff.

<sup>6</sup> *JQR* NS III, 397ff.

<sup>7</sup> In der Tat meint Poznanski, *Studien*, S. 13, dass R. Acha sein Werk erst in Palästina verfasst hat, und verweist das., S. 12, Anm. 3, für das Bekanntsein der *Scheeltoth* bei den Geonim auf das Responsum Scheriras.

<sup>8</sup> Vgl. A. Epstein, מאמר, SS. 12, 23. Zu diesen 4 Zitaten, die in Hal. Ged. I. und II. (3) enthalten sind kommt noch ein Zitat in Hal. Ged. II. 14, das in I fehlt: פירוש אמרו משמיה דרב יהודאי נאון ריש מתיבתא דאמר משמיה דרב אחא משבחה.

<sup>9</sup> *Geonica*, I, S. 106–107. Es ist wichtig, seine Ausführung in ihrem vollen Wortlaut mitzuteilen:

"A much more serious objection might be advanced, based upon the

Nun, was diese Theorie selbst betrifft, so soll sie hier nicht untersucht werden.<sup>10</sup> Ihre volle Richtigkeit zugegeben, folgt ja

presence of Sheeltot quotations in the ה"י. It is to the last degree improbable that Rabbi Jehudai would regard the work of his contemporary Rabbi Aḥa, whose activity, besides, displayed itself in Palestine, as of sufficient importance to be excerpted by him. But on closer examination this objection to the explanation given develops into a supporting argument. It was mentioned above that down to Rabbi Hai the Sheeltot were not mentioned by any Gaon, which makes the frequent quotations from them in the ה"י all the more remarkable. Another point to be noted is, that Rabbi Aḥa, the author of the Sheeltot, is mentioned by name four times in ה"י, but his opinions are each time introduced with the word אמר, whether they are statements of his appearing in the Sheeltot, or such as are not taken thence. An interpretation of these facts would properly permit us to infer, that the author of the ה"י was personally acquainted with Rabbi Aḥa and was told one thing and another by him in conversation, but his work, the Sheeltot, written in Palestine, was not known to Rabbi Jehudai, who may have written his own Halakic collection earlier than Rabbi Aḥa wrote his. Hence the Sheeltot quotations, which on their face are passages from the book reproduced literally, cannot have been put in by Rabbi Jehudai himself. The same explanation applies to them as to the fairly numerous decisions of Rabbi Jehudai himself that are to be found in the ה"י—doubtless a pupil of Rabbi Jehudai inserted, in appropriate places in his work, opinions of the master known from other sources. In the same way he enriched it with introductions taken from the Sheeltot."

Epstein, a. a. O., SS. 12 und 16 meint, dass die Anführungen R. Jehudais im Namen R. Achas den Halachoth des R. Jehudai entnommen sind. Ohne Anhaltspunkt, aber nicht unwahrscheinlich.

<sup>10</sup> R. Scherira, in dem oben, Anm. 3, angedeuteten Responsum, sagt ausdrücklich, dass R. Simon Kiara, der *Verfasser* der Hal. Ged., die Scheeltoth des R. Acha benützt hat: **הכין חוינא דמאי דכתב רב שמעון קיארא** בהלכות גדולות בהא מילתא מימריה דרב אחא מן שבחא הוא בשאלתא דבהעלותך... אילין מילי דרב אחא מן שבחא וכתבינן רב שמעון בהלכות גדולות. Dies wäre kein Argument gegen Ginzberg, da er die Theorie aufstellt: Hal. Ged. I ist das Werk R. Jehudais, während R. Simon Kiara der Verfasser von Hal. Ged. II ist (*Geonica*, I, 103f). Aber G. behauptet auch, dass Scherira und Hai beide Versionen der Hal. Ged. kennen, Hal. Ged. I R. Jehudai und Hal. Ged. II R. Simon zuschreiben (104f). Wie ist es nun? Hat Scherira die Scheeltothexzerpte in Hal. Ged. I gehabt, warum sagt er bloss, dass R. Simon—Hal. Ged. II aus Sch. geschöpft, hat er sie aber in Hal. Ged. I nicht gelesen, so sind sie nicht von einem Schüler R. Jehudais eingefügt worden. In der Tat aber steht die von Scherira angeführte Stelle auch in Hal. Ged. I, 253b (vgl. Epstein, מאמר, S. 5 oben). Ginzberg hat es unterlassen, auf dieses Responsum, das er S. 88 (s. oben Anm. 3) bloss andeutet und nicht mittheilt, einzugehen.

auch aus ihr, dass die Scheeltoth in Babylonien vorhanden und bekannt waren! Wer auch immer die Scheeltoth exzerpiert, R. Jehudai, sein Schüler oder auch ein Späterer, jedenfalls sind die Exzerpte in *Babylonien* gemacht worden, es hat also in Babylonien Scheeltothexemplare gegeben, die von den Geonim oder ihren Schülern benützt wurden! Anstatt aber durch die Scheeltothzitate in den Halachoth Gedoloth stutzig zu werden und seine These von dem Unbekanntsein der Scheeltoth in Babylonien zu überprüfen, ist er von dieser seiner Theorie so fest überzeugt, dass er aus ihr beweist, dass die Zitate aus Scheeltoth in Halachoth Ged. spätere Zusätze sind, ohne zu bemerken, dass die spätere Herkunft dieser Zusätze noch mehr seine These zerstört, als wenn R. Jehudai selbst, der Zeitgenosse R. Achas, sie gemacht hätte.

Ginzberg scheint doch diesen Widerspruch empfunden zu haben, denn er bemerkt: „Es ist nicht unmöglich, dass derselbe Schüler, auch zu Füßen R. Achas gesessen, als er noch in Babylonien lebte.“<sup>11</sup> Das will offenbar sagen, dass die Scheeltothzitate in Halachoth Gedoloth ebenfalls mündliche Mitteilungen R. Achas sind, einen anderen Zweck kann doch diese Bemerkung nicht haben. Nun, dass ein Schüler R. Jehudais zugleich auch Schüler R. Achas war, ist, wenn auch nicht sehr wahrscheinlich, auch nicht unmöglich, dass aber R. Acha in Palästina seine verschiedene Themata behandelnden Ausführungen haargenau so niedergeschrieben hätte, wie er sie vor langen Jahren in Babylonien mündlich mitgeteilt hat, muss wohl als absolute Unmöglichkeit bezeichnet werden.

Durch die Bemerkung Scheriras erweist sich aber auch Ginzbergs Hal. Ged.-Theorie als unhaltbar. Man kann beim Hal. Ged.-Problem der notwendigen Voraussetzung zweier *einander widersprechender* Traditionen nicht entgehen: die Autorschaft R. Jehudais für Hal. Ged. ist *suranische* Ueberlieferung, während in *Pumbeditha* R. Simon Kiara als der Verfasser von Hal. Ged. galt.

Umgekehrt ist das Verhältnis in bezug auf die „Halachoth des R. Jehudai“ In *Sura* wurden sie für eine Fälschung gehalten und daher mit Geringschätzung behandelt, während die *pumbedithanischen* Geonim sie für das Werk R. Jehudais hielten und daher sehr hoch einschätzten, wie die Suraner die Hal. Ged. hochhielten und die Pumbedithaner sie geringschätzten. Vgl. darüber Aptowitzer, חרביץ, I, 4, 76ff.

<sup>11</sup> “It is not impossible, that this same disciple may have sat at the feet of Rabbi Aḥa, too, while the latter still lived at Babylonia.”

Es gibt keinen Ausweg: Die Scheeltothexzerpte in den Hala-choth Gedoloth sind ein unabschwächbares Zeugnis dafür, dass das Werk R. Achas in Babylonien bekannt war und auch als halachische Quelle benützt wurde. Es gibt dafür noch andere Zeugnisse.

2. Scheeltoth N. 138, II. 46a: **אמר רבא כי בעינן תנאי כפול דקא יתב לה נט לאשתו וקא מחני בהדה אבל קא מחני שליח לא בעינן תנאי כפול וכו'** Dieser Satz kommt im Talmud nicht vor und R. N. Z. J. Berlin führt aus seiner Handschrift die Lesart **אמר מר רבה**<sup>12</sup> an und erklärt: **רבא** ist ein *Gaon*. Es ist Raba, der Schüler R. Jehudais, der Verfasser des **שמואל רבא** und der **כלה רבתי** und der **הלכות פסוקות דרב** **אבא**.<sup>13</sup>

Die Scheeltoth wurden also nicht bloss exzerpiert, sondern auch mit Zusätzen versehen.

3. Die soeben erwähnten *Halachoth Pesukoth* des R. Aba, des Schülers R. Jehudais, sind, wie man aus den in den letzten Jahren veröffentlichten Fragmenten<sup>14</sup> sieht, eine *Nachahmung der Scheeltoth des R. Acha*.<sup>15</sup>

4. In den **הלכות קצובות** des R. Jehudai heisst es in bezug auf die Chanukkahlichter: **ואם כבתה מותר להדליקה עד ה' פעמים עד שיכלה**.<sup>16</sup> Dieser Satz gibt keinen Sinn. Im Talmud gibt es eine Meinungsverschiedenheit darüber, ob man ein Chanukkahlicht, wenn es verlöscht, wieder anzünden muss,<sup>17</sup> dass man

<sup>12</sup> So auch MS. Epstein. Vgl. I. N. Epstein, *JQR NS*, XII, 303.

<sup>13</sup> Vgl. Aptowitzer, *REJ*, LVII, 246ff. Vgl. Epstein, a. a. O., Anm. 10.— In meinem Aufsatz habe ich die Vermutung ausgesprochen, dass R. Aba kein Amt bekleidet hatte, da sein Schüler ben Baboj ihn ohne Titel anführt. Dagegen wendet Ginzberg, *Ginze Schechter*, II, 504 ein, dass Ben Baboj auch R. Jehudai blos zweimal mit dem Titel Gaon und viermal mit dem blossen Namen anführt. Ich glaube, dieser Einwand ist nicht sehr stark. Es ist doch ein Unterschied zwischen nicht immer und niemals. R. Jehudai wird auch bei den Geonim und bei den mittelalterlichen Autoren bald als Gaon, bald ohne Titel genannt, R. Aba aber wird immer mit seinem blossen Namen angeführt: **רב אבא** oder **רבא**.

<sup>14</sup> Veröffentlicht von Schechter in der *Hoffmann-Festschrift*, S. 263ff., und von I. N. Epstein in den Schriften der hebr. Universität zu Jerusalem **מרעי** **היהדות**, II, 156–161.

<sup>15</sup> Vgl. Epstein, a. a. O., 149ff.

<sup>16</sup> **אם כבתה מותר עד חמשה פעמים** S. 44: **מעשה הגאונים** I, 18. **חורתן של ראשונים**.

<sup>17</sup> **כבתה אין זקוק לה, כבתה זקוק לה**. Sabbath 21ab.



aber dies darf und es sogar erwünscht ist, ist ja selbstverständlich und braucht nicht als Halacha normiert zu werden. Und warum bloss bis fünfmal? Die Halacha kann nur verständlich sein, wenn es sich darum handelt, ob das von einem Licht zurückgebliebene Oel für ein zweites verwendet werden darf oder für jedes Licht frisches Oel erforderlich ist, so dass zurückbleibendes Oel profanen Zwecken dienen kann. Dann sagt der Satz: wenn es erlischt und Oel zurückbleibt, darf man es bis *achtmal*<sup>18</sup> d. h. alle acht Chanukahtage anzünden, bis das Oel zu Ende ist. Dieser Sinn folgt deutlich aus dem Text im *Seder R. Amram*:<sup>19</sup> והחלית מותר להדליק עד כמה פעמים עד שיכלה אותו השמן אשר שם בו בדבר מצוה אש כבתה והותר שמנה מסיף עליו. Diese Halacha aber stammt aus den Scheeltoth: ביום שני ומדליק ואם הותר ליום שני מסיף עליו ליום שלישי ומדליקו וכן שאר הימים הותר ליום שמיני עושה מדורה ומדליק בפני עצמו דכיון דהוקצה למצוה אסור להסתפק ממנו.<sup>20</sup> Die Halacha auch in einem Responsum R. Hais: ושאלתם—מותר השמן שבילילה הא' של חנוכה מדליק בליל השני וכן בכל לילה ולילה ובליל שמיני שורפו כולו מפני שהוקצה למצוה אסור להנות ממנו.<sup>21</sup>

<sup>18</sup> חמשה: מעשה הנאונים ה נח. verschrieben, daher in ח נח.

<sup>19</sup> Ed. Warschau 35b. Das ganze Stück von ונר חנוכה Zeile 6—בעשיית מלאכה Zeile 15 ist eine wörtliche Entlehnung aus den הלכות קצובות. Es wundert mich, dass I. N. Epstein in seiner Analyse des Seder Amram, *Simchoni-Gedenkschrift*, S. 122–141, dies nicht bemerkt.

<sup>20</sup> N. 26, 2, ed. Wilna 38b–39a. Die Forderung, Oel hineinzugeben, denkt an den Fall, dass nicht soviel zurückblieb, wie für die normale Brennzeit nötig ist.

<sup>21</sup> שיערי תשובה N. 92. R. Salomon b. Aderet, Novellen zu Sabbath 21b, zitiert die Vorschrift im Namen von נאונים חמשה. In einem anderen R. Hai zugeschriebenen Responsum, das., N. 233, heisst es, dass man nach der Brennzeit das Chanukkahlicht ins Haus hereinnehmen und dabei Arbeit verrichten darf, וכן אם הוצרך לה לאחר שכלתה רגל מן השוק מכניסה ומשתמש לאורה ומותר. Dies steht im Widerspruch zu unserer Halacha. Vgl. Beth Josef und ב"ח zu Tur I N. 677 Ende und Ture Sahab, *ibid.*, N. 672 u. a. Folglich muss eines der beiden Hai zugeschriebenen Responsen einem anderen Autor gehören. Nun stimmt aber שיערי תשובה 233 inhaltlich und zum Teil auch sprachlich mit dem Responsum Natronai in *Geonica* II, 342–343, NN. XXXVIII, XXXIX, so gehört auch שיערי תשובה 233 Natronai und שיערי תשובה 92 Hai. Ueber Verwechslungen zwischen Hai und Natronai vgl. Aptowitzer, *Tarbiz*, I, 4 SS. 78 f., 100 f.. Ich bemerke jetzt, dass schon Ginzberg, *Geonica* II, 297, N. 24 die Richtigkeit der Zuweisung von שיערי תשובה 233 an Hai bezweifelt. Auch im Seder Amram MS. Oxford kommt kurz vor dem Zitat aus הלכות קצובות in Zeile 3 folgender Satz vor: (Sab. 21b) נמי לשיעורא S. Marx, *Untersuchungen*, S. 18. Natürlich ist ונר ein späterer Zusatz.

5. *Seder R. Amram*: וזה שנהגו לומר ויהי נועם וקדושא דסדרא ולומר: כדי שישתחו ישראל בהשלמת סדריהם, כדי להאריך מנוח לרשעים מלחזור לגיהנם, כדאמרין במוצאי שבת צועק המלאך שהוא ממונה על הרוחות חזרו לגיהנם (למות) שכבר השלימו ישראל סדריהם. ולכך מזכירין ישראל בסדר מוצאי שבת ויהי נועם, כי כן רמז לוייה נועם במוצאי ובמוצאי שבת. <sup>22</sup> Dies stimmt wörtlich mit *Scheeltoth* überein: שבת עם חשיכה צועק המלאך שהוא ממונה על הרוחות ואומר חזרו לגיהנם שכבר השלימו ישראל את סדריהן ולכך ישראל מזכירין בסדר מוצאי שבת ואומרים ויהי נועם ה' אלהינו עלינו במוצאי שבתות ובמוצאי ימים טובים שחל להיות כדאמרין. <sup>23</sup> בבשבת, מיכן רמז לוייה נועם במוצאי שבתות mit welchem Ausdruck die Geonim die *talmudischen* Quellen anführen, zeigt, dass die Stelle von ירושלמי—ובמוצאי—entnommen ist, <sup>24</sup> von ולכן aber ist den *Scheeltoth* entlehnt.

6. Ein anonymes *gaonäisches Responsum*:<sup>25</sup> וחשובת שאלה זו ומתיבתא שאלו הא דתנן מגילה נקראת באחד עשר בשנים עשר בשלשה עשר בארבעה עשר בחמשה עשר לא פחות ולא יותר. וא"ר יהודה אימתי בזמן שהשנים כתקנן וישראל שריון על אדמתן אבל בזמן הזה הואיל ומסתמא בקיאיין הן אין קורין אותה אלא בזמנה והלכה כת"ק או הלכה כרבי יהודה, השיבו בין לרבי יהודה בין לת"ק מגילה אינה נקראת אלא בזמנה והרי קאמר ת"ק כרבי המוקפין חומה מימות יהושע בן נון קורין אותה בחמשה עשר כפרים ועירות גדולות קורין ב"ד אלא שהכפרים מקדימין ליום הכניסה. והא דתנן מגילה נקראת בי"א בי"ב בי"ג וכו' ליושב בתענית שכבר פ' בסוף המשנה אלא שהכפרים מקריאין ליום הכניסה. ומאי יום הכניסה יום הקהלה דאמר מר שלשה עשר יום קהלה לכל היא דכתיב ובשנים עשר חדש הוא חדש אדר בשלשה עשר יום בו וגו' נקהלו היהודים בעריהם וגו'. נקהלו וגזרו תענית בשלשה עשר באדר אבל ארבעה עשר יו"ט הוא דכתיב ונוח בארבעה עשר בו ועשה אותו יום משתה ושמחה ובשושן הבירה לא נחו אלא בחמישה עשר לפיכך שושן וכל המוקפין קורין בט"ו ועושין יו"ט. זה ששינוי מגילה נקראת וכו' ליושב בתענית שאסור לישב בתענית בשבת שאם חל י"ד להיות באחד בשבת אסור להתענות בשבת ובערב שבת נמי אסור מפני טורח שבת אלא מקדימין ומתעניין בחמישי שהוא אחד עשר באדר ואם חל ארבעה עשר בשבת אסור להתענות בע"ש מפני טורח

<sup>22</sup> *Seder R. Amram*, ed. Warschau, 31a, ed. Frumkin II, 55a.

<sup>23</sup> N. 1, 2b unt.—3a oben. Den Satz שחל להיות בשבת lässt *R. Amram* weg, weil die Geonim der Ansicht sind, dass am Ausgang des Feiertages ירושלמי nicht gesagt werden soll. Vgl. das *Responsum* Sar Schaloms in *Seder R. Amram* das. u. a.

<sup>24</sup> Synhed. 65b. Vgl. w. unt. II, S. 385f., A, 1, b.

<sup>25</sup> Erhalten in *Tanchuma* I בראשית §3.



*babylonischen* Hochschulen ist, zeigen Sprache und Form und wird auch von einem in bezug auf Quellenangaben besonders zuverlässigen alten Autor<sup>29</sup> bestätigt, der eine Stelle in Tan. aus den *Responsen der Geonim* zitiert:

Or Zarua:

Tanchuma:

ומהשאנו מקדימין התענית	שאם חל י"ד להיות
ליום החמישי כשחל	באחד בשבת אסור להתענות
פורים באחד בשבת ...	בשבת, ובערב שבת נמי
ובתשובות הגאונים פירש	אסור מפני טורח שבת
מפני שהיו מרבים	אלא מקדימין ומתענין
בסליחות ובתחנונים	בחמישי שהוא אחד עשר באדר.
ביום התענית ואם היו	ואם חל ארבעה עשר בשבת אסור
עושין בע"ש היו טרודים	להתענות בערב שבת מפני
ולא היו יכולים לטרח	טורח השבת שעיקר התענית
בצרכי שבת.	סליחות ורחמים הוא
	ואתי לאימנועי מכבוד
	שבת.

Or Zarua hat also Tan. בראשית §3 in einem gaonäischen Responsum gelesen.

Es ergibt sich nun aus den vorstehenden Ausführungen, dass selbst wenn man Ginzbergs Theorie in bezug auf die Scheeltoth-exzerpte in den Halachoth Gedoloth gelten lassen könnte, es über jeden Zweifel erhaben ist: *die Scheeltoth waren seit ihrer Entstehung in Babylonien verbreitet und wurden von den Geonim benützt.*<sup>30</sup>

Warum aber die Geonim vor Scherira das Werk R. Achas überhaupt nicht erwähnen und auch Scherira seiner nur gelegentlich gedenkt, wo es gilt, R. Simon Kiara Plagiat vorzuwerfen, und nicht an offizieller Stelle bei der Erwähnung der Auswan-

Babylonien gerichtete Anfrage handelt, möchte ich ohne Weiteres nicht entscheiden."

<sup>29</sup> Or Zarua II, N. 367 nach der Erwähnung der Scheeltoth.

<sup>30</sup> Daraus folgt aber auch, dass die Scheeltoth des R. Acha in Babylonien verfasst wurden. Auch Sprache und Terminologie sind durchaus *babylonisch*. Anlage und Aufbau entsprechen genau der Art wie in Babylonien bei feierlichen Versammlungen—שבתא דרנלא וכלה—die Vorträge gehalten wurden. Vgl. I. N. Epstein, *JQR NS*, XII, 299ff. Vgl. auch Lewin, *Jüdische Studien Dr. I. Wohlgemuth gewidmet* (Sonderabdruck), S. 1ff.

derung R. Achas nach Palästina (*Scherirabrief* ed. Lewin S. 163), ist, wie ich glaube, aus der Stellung der Geonim zu Palästina zu erklären:

Wir wissen, dass in der gaonäischen Epoche, Palästina immer mehr in geistige Abhängigkeit von Babylonien geriet. Es ist aber selbstverständlich, dass Palästina nicht freiwillig und gern sich in die „babylonische Gefangenschaft“ begeben, dass es sich in früherer Zeit gegen den Uebereinfluss Babylonien sträubte und wehrte. Es ist auch selbstverständlich, dass jede Zufuhr an geistiger Kraft die Palästinenser in ihrem Kampf für ihre Unabhängigkeit stärken musste. So bedeutete die Einwanderung eines Gelehrten vom Range R. Achas in Palästina eine Störung der babylonischen Suprematiebestrebungen. Daher konnte die babylonisch-gaonäische Politik R. Acha seine Uebersiedlung nach Palästina, seinen „Verrat“ an der babylonischen Sache nicht verzeihen. Daher wurde sein Werk verschwiegen.

In der Tat erfahren wir aus dem Bericht *Ben Babojs*<sup>31</sup>, dass ein Versuch R. Jehudais, in Palästina babylonische Halacha und babylonische Bräuche einzuführen, erfolglos blieb. Es war etwa 10–15 Jahre nach der Einwanderung R. Achas, der vielleicht damals noch am Leben war. Der Nacken der Palästinenser war gesteift. Palästina besass eigene halachische Gelehrsamkeit und eine eigene dem babylonischen Gaon ebenbürtige halachische Autorität. Gewiss stammte diese Autorität aus Babylonien, aber R. Acha, dem in seiner Heimat schweres Unrecht widerfuhr, weshalb er sie verlassen musste, hat sicherlich keinen babylonischen Chauvinismus entfaltet und die Palästinenser in ihren Gewohnheiten nicht gestört.

Dass sich um R. Acha Jünger geschart und so ein Lehrhaus entstand, aus dem einheimische, palästinische Gelehrte hervorgegangen, kann als absolut sicher vorausgesetzt werden. Diese Gelehrten setzten etwa 50 Jahre nach R. Jehudai dem von R. Jehudais Schülerenkel Ben Baboj wiederaufgenommenen Versuch, Palästina ganz zu babylonisieren,<sup>32</sup> heftigen Widerstand entgegen. Daraus erklärt sich der ungemein heftige Ton Ben Babojs. So

<sup>31</sup> *Ginze Schechter*, II, 559f. Vgl. Ginzberg, SS. 6, 9, 507.

<sup>32</sup> *Ginze Schechter*, II, 545ff. Vgl. Ginzberg, SS. 9, 507.



war die Einwanderung R. Achas in Palästina für dieses Land von grosser Bedeutung und nachhaltiger antibabylonischer Wirkung. Dies konnte R. Acha nicht vergessen und nicht verziehen werden.

## II.

### GAONÄISCHES IN DER LITERATUR PALÄSTINAS

#### A. PESIKTA RABBATHI

##### 1. *Scheeltoth*

Eine Beziehung zwischen den Scheeltoth des R. Acha und der Pesikta rabbathi und zwar in dem Sinne, dass R. Achai die Pesikta benützt hat, wurde schon von Gelehrten des vorigen Jahrhunderts vorausgesetzt.<sup>1</sup> Später wurde diese Frage Gegenstand der Meinungsverschiedenheit bei den Forschern, indem die einen die ältere Ansicht verteidigten, während die anderen die Beziehung zwischen den beiden Werken in entgegengesetzter Richtung auffassten, dass nämlich die Pesikta die Scheeltoth benützt hat. Bei näherem Zuschauen aber erweisen sich die vorgebrachten Argumente für und wider als nicht stichhältig. Dagegen glaube ich mit absoluter Sicherheit nachweisen zu können, dass die *Pesikta die Scheeltoth benützt hat*. Zunächst nun das ältere Material.

Zun<sup>2</sup> hat in der Pesikta rabbathi „Spuren von der unmittelbaren Benützung der Scheeltoth“ gefunden. Er verweist auf: „Rabbathi f. 12b oben (Scheeltoth N. 54 f. 17b unten) d. i. Pes. N. 9. Friedmann 31a und Scheeltoth ed. Wilna 89b unten. Aber dieser Hinweis beruht auf einem Missverständnis. Die betreffende Ausführung in der Pes. stammt aus dem *Jeruschalmi*.<sup>3</sup>

<sup>1</sup> Vgl. weiter unt. Anmm. 10, 25.

<sup>2</sup> *Gottesdienstliche Vorträge*, S. 255.

<sup>3</sup> Ber. VII, 6, 11cd.—Zunz ist zu seinem Irrtum dadurch gekommen, dass er zu der Frage der Pes.: *אדם מִיִּשְׂרָאֵל מִהוּ שִׁיחָא רִשְׁאֵי לְבָרַךְ עַל הַכּוֹס כְּשֶׁאֵינוּ מוֹדִים* in dem Satz der Scheeltoth (89b unt.) *וּמִיִּחְבְּעִי לִיהָ לְאֶדְוָהִי כִּסָּא דְּבִרְכָתָא* eine Entsprechung gefunden und daher geglaubt hat, ר' אחא, in dessen Namen die Antwort in der Pes. angeführt wird, sei R. Acha, der Verfasser der Scheeltoth, ohne zu beachten, dass die Ausführungen in den beiden Werken nicht im geringsten einander ähnlich sind. In einem Punkte berühren sich Pes. und Sche. Pes.: *וְשִׁיחָא גְבוּהָ* = Jerusch.: *וּמִגְבִּיהוּ מִן הַשְּׁלַחַן טַפַּח* = Sche.: *וְשִׁחָא יְדוּ מִן הַטְּבֵלָא טַפַּח*

Nicht viel glücklicher sind die Argumente für eine Benützung der Pesikta seitens R. Achais.

a. *S. Buber*<sup>4</sup> behauptet, dass der Satz Sche. N. 1 (1b): תניא אמר רבי יוחנן צריך האדם שיהא לו שתי עטיפות, אחת של חול ואחת של שבת der Pesikta N. 23<sup>5</sup> entlehnt ist. Ebenso *Friedmann*,<sup>6</sup> der meint: Das תניא in Sche. erklärt sich daraus, dass R. Acha חנן in der Pes.: = חנינא verstanden und diesen Chanina für einen Tannaiten gehalten. Er hat übersehen, dass die Scheeltoth den Satz im Namen von R. Jochanan anführen, wie er selbst einige Zeilen vorher zitiert und sogar den Namen gesperrt! Merkwürdigerweise hat auch *Ginzberg*,<sup>6a</sup> der Friedmanns Erklärung zustimmt, diesen Widerspruch nicht bemerkt. Wenn aber Ginzberg meint, dass das Zitat in den Scheeltoth buchstäblich mit Pes. übereinstimmt und nicht mit Jeruschalmi, so ist dies doppelt ungenau. 1) ist Pes. = Jerusch. und 2) ist der Wortlaut in Sche. von dem in diesen beiden Quellen verschieden.<sup>6b</sup> Warum aber R. Acha eher die Pesikta als den Jeruschalmi benützt haben soll, ist nicht einzusehen. Es ist daher zweifellos, dass das fragliche Zitat in Sche.—wenn es nicht überhaupt ein späterer Zusatz ist—<sup>6c</sup> auf

מן השלחן טפח. Aber in Scheeltoth MS. מן הקרקע, wie im Babli Ber. 51a. Vgl. R. N. Z. J. Berlin, השמטות, ed. Wilna, II, 111a. So auch MS. Epstein—Aptowitzer, jetzt im Hebrew Union College, Cincinnati.

<sup>4</sup> *Beth Talmud*, III, 210.

<sup>5</sup> Ed. Friedmann 115b unten: אמר רבי חנן מכאן צריך האדם שיהא נלון שתי עטיפות אחת לחול ואחת לשבת. Der Satz wie die folgende Ausführung stammen aus Jerusch. Pea VIII, 8, 21b oben, und Ruth r. zu 3. 3 (V, 12). In diesen Quellen ist der Autor des Satzes חנינא ר'.

<sup>6</sup> Zu Pes. r. 116a, Anm. 15 Ende: אמא'ש עפ'י דרכנו נראה הדבר קרוב שבעל השאלות העתיק מהפסיקתא שלפנינו וכתב תניא דקסבר דברייחא הוא ור' חנינא דברייחא קאמר לה.

<sup>6a</sup> *Geonica*, I, 80: "His words in I, 2, of the Sheeltot, regarding Sabbath garments, agree literally with Pesikta R., XXIII, 115b and not with Jer. Peah, VIII 21b, top, an agreement to which Friedmann in his notes on the Pesikta called attention. It is therefore more probable that Rabbi Aḥa used either the Pesikta or one of the sources of the Pesikta, than that he used the Jerushalmi."

<sup>6b</sup> Jerusch.: צריך האדם שיהא לי שני עטיפות אחד לחול ואחת לשבת. Sche.: צריך האדם שיהא נלון שתי עטיפות אחת לחול ואחת לשבת. של חול ואחת של שבת.

<sup>6c</sup> Es fehlt nämlich in manchen Handschriften. Vgl. Ginzberg, a. a. O.

Jerusch. zurückgeht,<sup>7</sup> wo er die Lesart יוחנן ר' gehabt, wie auch andere alte Autoren.<sup>8</sup>

b. Eine zweite Entlehnung R. Achas aus der Pesikta ist nach Buber<sup>9</sup> und Friedmann<sup>10</sup> die *Erzählung betreffend das Gespräch zwischen R. Akiba und Tinius Rufus über die Bedeutung des Sabbath*. Sche. N. 1, 2b—Pes. N. 23, 119b f.<sup>11</sup> In Wirklichkeit aber ist, wie ein Vergleich der beiden Stellen deutlich zeigt, die Erzählung in den Scheeltoth von der in der Pesikta in bezug auf die Sprache sowohl in der Ordnung der einzelnen Wechselreden völlig verschieden und ist eine Kombination der Erzählungen in Gen. r.<sup>12</sup> und im Babli<sup>13</sup> mit Erklärungen aus Eigenem.<sup>14</sup>

Was aber den in Gen. r. und im Babli nicht vorhandenen Schluss der Erzählung, die Angabe über Dumah, betrifft, so folgt sie geradezu von selbst aus einigen Aussprüchen des *babylonischen* Talmuds: Dumah verkündet den Toten die Ankunft neuer Seelen.<sup>15</sup> Der Todesengel übergibt die Seelen der Verstorbenen

<sup>7</sup> So schon R. N. Z. I. Berlin. So Reifmann in *Beth Talmud*, III, 52, Schorr in *Zunz-Jubelschrift*, S. 140, Poznanski, *Studien zur gaonäischen Epoche*, S. 13, N. 1.

<sup>8</sup> So *Rabiah*, ed. Aptowitzer, I, 245. Vgl. das. Anm. 36.

<sup>9</sup> *Beth Talmud*, III, 210. Den Schluss der Erzählung betreffend den Höllenfürsten Dumah und seine Herrschaft über die Seelen der Sünder, die die Woche hindurch gepeinigt werden und am Sabbath ruhen, erklärt Reifmann, *Beth Talmud*, III, 53, N. 8, als eine Entlehnung aus Jelamdenu, während Buber das., S. 111 auch dafür auf die Pesikta verweist, wo sie tatsächlich vorkommt. Reifmann hat, wie er *Beth Talmud*, III, 251 bemerkt, die Pes. r. nicht gekannt.

<sup>10</sup> Einleitung zur Pesikta, S. 24 und in Anmerkung zum Text 120b. So schon R. E. S. Margulies bei R. H. Chajes, אגרת בקורת S. 6. Vgl. Buber, Einleitung zur Pesikta, S. VII.

<sup>11</sup> Inhaltlich, mit bloss geringer Abweichung in der Anordnung,—Tanchuma חשא §32. Am Anfang stimmt Tan. mit Sche. überein.

= XI, 5, ed. Theodor. S. 92f.

<sup>13</sup> Synhed. 65b. Hier das Moment des Rauchaufsteigens, das in den anderen Texten fehlt.

<sup>14</sup> Die Angabe, dass das Gespräch am Sabbath stattgefunden hat, ergibt sich aus der Frage מה היו, wie alte Babiltexte lesen, und aus der Frage, wer bezeugt, dass jetzt Sabbath ist מי ימר דהאידינא שבתא. Vgl. Theodor, S. 93. Das Dumahmotiv ist eine Erklärung des Satzes in Gen. r. כל ימות השבת נידונין ובשבת. Aruch. v. צלמו. zitiert aus Jelamdenu כי Ende den Tanchuma-text. Er versteht also auch hier, wie öfters, unter Jelamdenu den Tanchuma.

<sup>15</sup> Berachoth 18b.

dem Dumah.<sup>16</sup> *Die Seelen der Frommen wie die der Frevler sind dem Dumah ausgeliefert, nur haben die frommen Seelen Ruhe während die Seelen der Frevler keine Ruhe finden.*<sup>17</sup>

Es ist aber sehr wahrscheinlich, dass R. Acha die Ausführung über Dumah und die Seelen der Frevler in seinem *Talmudtext* gehabt. Aus dem Talmud wird sie von dem Verfasser des Schibbole ha-Leket zitiert.<sup>18</sup> Auch R. Amram Gaon scheint sie im Talmud gelesen zu haben, denn er führt sie mit derselben Formel an, wie die Geonim gewöhnlich die talmudischen Quellen anführen: ולכך מוכירין ישראל<sup>19</sup>. Ich sage „scheint,“ weil der Satz usw. ebenfalls in Sche. steht,<sup>20</sup> so dass R. Amram aus Scheeltoth zitiert. Dies ist aber wegen כדאמרין durchaus unwahrscheinlich. Andererseits aber ist wegen der buchstäblichen Kongruenz des Wortlautes der betreffenden Stellen in beiden Werken,<sup>21</sup> besonders durch den auffallenden Ausdruck מוכירין ein zufälliges Zusammentreffen fast ausgeschlossen. Es bleibt daher nichts anders übrig, als anzunehmen, dass R. Amram zu der Stelle aus dem Talmud die Bemerkung R. Achas hinzugefügt.

Vergleicht man nun den Wortlaut der Ausführungen über die Behandlung der verdammten Seelen durch Dumah in Sche. und Pes. (Tan. und Jelandenu in Aruch), so wird man sich leicht überzeugen können, dass die schlichte Darstellung in Sche. unmöglich auf Pes. zurückgehen, wohl aber die Ausführung in

<sup>16</sup> Chag. 5a.

<sup>17</sup> Sabbath 152b.

<sup>18</sup> *Schibbole ha-Leket*, ed. Buber, N. 129, 51a: ומפורש בתחומא במוצאי שבת צאו לניהנם שכבר השלימו ישראל סדריהן ו בסנהדרין בת קול יוצאת ואומרת להם לרשעים צאו לניהנם שכבר השלימו ישראל סדריהן ו בסנהדרין פרק ד' מיתות במעשה דטנוסרופוס כששאל ר' עקיבה מה יום משאר הימים וכו' עד אמר לו מלאך שהוא ממונה עלינו דומה שמו והוא דן אותנו בכל יום ויום ובערב שבת עם חשיכה בת קול יוצאת מכרות ואומרת הנח לרשעים אלו ויגורו ובמוצאי שבת עם חשיכה צועק המלאך שהוא ממונה על הרוחות אלו ואומר חזרו לכם לניהנם למות שכבר השלימו ישראל סדריהן וכן כתב בעל השאלות מכאן רמז ליהי נועם למוצאי שבתם ובמוצאי ימים טובים שחלו להיות בשבת וזה שנהנו: Seder R. Amram, ed. Warschau 31a, ed. Frumkin II, 55a.

<sup>19</sup> וזה שנהנו: Seder R. Amram, ed. Warschau 31a, ed. Frumkin II, 55a: לומר ויהי נועם וקדושה דסדרא ולומר בנעימה ובעריבות טעם באפוקי שבהא. כדי שישתהו ישראל בהשלמת סדריהם. כדי להאריך מנוח לרשעים מלחזור לניהנם. כדאמרין במוצאי שבת צועק המלאך שהוא ממונה על הרוחות חזרו לניהנם (למות) שכבר השלימו ישראל סדריהם. ולכך מוכירין ישראל בסדר מוצאי שבת ויהי נועם. כי כן רמז ליהי נועם במוצאי שבת. Vgl. *Parides*, N. 4 und *Siddur Raschi*, S. 260, N. 521.

<sup>20</sup> In edd. und MSS. in *Magen Aboth*, ed. Last S. 20, *Schibbole ha-Leket*, N. 129. Vgl. Lewin, *Ozar ha-Geonim*, II, 108.

<sup>21</sup> Vgl. oben I, N. 5, S. 379.





Hat nun die Pesikta von den Scheeltoth genommen oder R. Acha die Halacha der Pesikta entlehnt oder haben beide aus einer dritten Quelle, einer Baraita im Babli, geschöpft? Für *Friedmann*<sup>25</sup> ist es selbstverständlich, dass R. Acha die Halacha aus der Pesikta herübergenommen. Ebenso Buber.<sup>26</sup>

In den Ausgaben fehlt Frage und Einleitung der Antwort und der Text beginnt: אם כבתה והותר שמנה מוסיף עליו יום שני ומדליק ואם הותר ליום שני מוסיף עליו ליום שלישי ומדליק וכן שאר הימים הותר ליום שמיני עושה מדורה ומדליק בפני עצמו כיון שהוקצה למצוה אסור להסחפק ממנו.

*Tossafoth Sabbath 44a v.* zitieren: כבה בליל ראשון מוסיף עליו: דחניא כבה ב' ומדליק ב' כבה ליום שמיני עושה לו מדורה בפני עצמו מפני שהוקצה למצוה. Vgl. *SMG* und *Rabiah*.

Gerade die vielfachen, aber unwesentlichen Varianten zeigen, dass das Stück in allen Handschriften vorhanden war. Es ist daher eine ganz unbegründete Behauptung Reifmanns, *Beth Talmud*, III, 77, N. 3, dass die Abhandlung bis Schluss der Scheelta späterer Zusatz ist. Das Hebräische beweist nichts, da es eine Baraita ist; auch חכמים כך חנו חכמיא כך שנו חכמים ist nicht selten.

<sup>25</sup> Einleitung S. 24. Er beruft sich auf *Ha-Eschkol* II, 20: וכתב רב אחא ברייתא דפסיקתא נר חנוכה. Dies beweist aber nur, dass der Verfasser des Eschkol dieser Ansicht war, nicht aber dass es tatsächlich sich so verhält. Uebrigens ist die ganze Stelle im Eschkol verdächtig. Der Pilpul über den Ausgleich zwischen unserer Halacha und der Ansicht Alfasis ist nicht nach Art R. Jehuda Barzelonis. Alle drei Ausgleichsvorschläge kommen in *Or Zarua* II, N. 322 und *Mordechai Sabbath* II, N. 266 vor. Vgl. auch *Beth Josef* zu Tur I, N. 677. Vgl. auch oben I, N. 4.

Meine Vermutung wurde bestätigt, und mehr als ich erwartete bestätigt, durch eine Mitteilung Ch. Albecks, der im Besitze einer Abschrift der Pariser Eschkolhandschrift ist. Er schreibt (כ"א חמח חרצ"א): ועתה דע שהלכות האלו (חנוכה ופורים, נדה) מראשון ועד סופן מזויפות הן. [Vgl. auch Sch. Albeck, *Kofer Ha-Eschkol*, SS. 12, 13.] Die Angabe in bezug auf הלכות נדה = Eschkol I, 70–118, ist ebenfalls für Scheeltoth wichtig. Eschkol I, 117 heisst es nämlich: וכן כתב רב אחא משבחה ומייתי לה מירושלמי. Darauf wird allgemein verwiesen als Beweis, dass R. Acha den Jeruschalmi benützt hat. Vgl. Brüll, *Jahrbücher*, II, 149. Weiss, *zur Geschichte*, IV, 25f., Anm. Ratner ציון אהבה zu חלה S. 103. Poznanski, *Studien zur gaonäischen Epoche*, S. 15, N. 12 und in *JQR NS*, III, S. 405. Auch Schorr, *Zunz-Jubelschrift*, S. 140 und Ginzberg, *Geonica* I, S. 85, verweisen auf diese Stelle im Eschkol, aber schon mit Reserve und Bedenken. Nun erweist sich jede Dissussion darüber als überflüssig. Auf die Pesikta als Quelle für Scheeltoth verweist R. Pardo in דברי רבינו סמוכין מן התורה דהכי איתא z. St. ed. Sal. 41b: בהדיא בפסיקתא.

<sup>26</sup> Einleitung zur Pesikta, S. VII, Anm. und Einleitung zu Tanchuma, S. 16, Anm.

Es lässt sich aber nachweisen, dass die Pesikta die fragliche Halacha den Scheeltoth entlehnt hat. Dies deutet uns die Pesikta selbst an. Die Antwort wird eingeleitet mit der Formel למדנו רבותינו. Diese Einleitungsformel wird in der Pesikta rabbathi und auch sonst in Jelamdenu-Deraschot stets dann gebraucht, wenn die als Antwort dienende Halacha nicht einer tannaitischen Quelle entommen ist.<sup>27</sup> Es ist nun sicher, dass Pes. die fragliche Halacha *nicht* in einer Baraita gefunden. Bei Anführungen aus tannaitischen Texten heisst es in Pes. durchwegs כך שנו רבותינו.

<sup>27</sup> Pesikta NN. 1, 4, ■ (חלמוד למדנו רבותינו), 13 (חלמוד למדנו רבותינו), 40, 43, 47.—*Debarim* r.: 1. 1; 4. 1; 5. 8; 8; 9. 1.—*Aruch* עבר.—*Machsor Vitry* S. 110, N. 140 (למדנו רבותינו). Vgl. Siddur Raschi S. 257, N. 115 und Pardes N. 4, Schibbole ha-Leket N. 128. Pesikta N. 40: למדנו רבותינו חשע ברכות אדם צריך להחפיל בראש השנה ומה טעם מחפלים חשע ולא שבע כמו שמחפלים בשבת אלא ט' כנוד ט' הזכות שברשת חנה ולמדו חפלת ראש השנה מפרשת חנה. Dazu bemerkt Friedmann: Die Berachoth von R. ha-Schana sind in der *Mischna* und in der Baraita R. ha-Schana 32a in drei Gruppen, Malchioth, Zichronoth, und Schofarothe, geordnet, und nicht R. Jizchak ist der Urheber des Satzes, daher muss die Pesikta so korrigiert werden: למדנו רבותינו חשע ברכות אדם צריך להחפיל בראש השנה ורבי יצחק: אומר ומה טעם. Und Ginzberg, *Ginze Schechter* I, 507f. stimmt Friedmann mit Begeisterung zu, nur meint er, dass Friedmann nicht konsequent ist, denn wenn die *Mischna* zitiert wird, so kann sie nicht mit למדנו רבותינו eingeleitet werden. Daher—meint nun Ginzberg—muss man den Pesiktatext so korrigieren: כך שנו רבותינו חשע ברכות אדם צריך להחפיל בר"ה ומה טעם למדנו רבותינו ר' יצחק אומר ומה טעם וכו'. Aber beide Korrekturen sind absolut unzulässig, die Friedmanns wegen רבותינו, die Ginzbergs aber deshalb, weil in den dreissig *Jelamdenu-Deraschoth* der Pesikta auch nicht ein einziges Mal eine doppelte Einleitung vorkommt, sondern שנו רבותינו, wenn die Antwort mit einem tannaitischen, und למדנו רבותינו, wenn sie mit einem nichttannaitischen Satz beginnt. Doppelte Einleitungen hat nur *Debarim rabba*. Der Pesiktatext bedarf auch keiner Korrektur. Dem Darschan kommt es hauptsächlich auf die Begründung der Neunzahl an, die ihm den Uebergang zum Channagebet—zu I Sam. 1.10—zu Rosch ha-Schana bietet; daher zitiert er auch die Neunzahl selbst aus dem Satze R. Jizchaks (Ber. 29a), in dem *allgemein* von neun Berachoth am Neujahr die Rede ist, während in der Tosefta R. ha-Sch. Ende vom Neujahr am Sabbath gesprochen wird und in der *Mischna* R. ha-Sch. IV, 5 die Zahl überhaupt nicht genannt wird.—Ist nun aber der Text in Pesikta N. 40 so richtig wie er uns vorliegt, dann wird durch ihn die von Ginzberg, a. a. O., S. 503f., aufgestellte Theorie, dass die zu Pentateuchlektionen gehörenden *Jelamdenu-Deraschoth* in der Pes. r. bloss mit tannaitischen Texten beginnen, widerlegt. Dies geschieht ja auch durch unsere Pesikta N. 3, die zu einer Pentateuchlektion gehört und mit einem nichttannaitischen Text beginnt.

Stammt die Antwort aus *amoräischer* Quelle, dann wird der betreffende Urheber des Satzes mit Namen angeführt: למדנו ר' רבותינו אמר ר' פלוני. In den Fällen aber, wo die Halacha aus *nachtalmudischen* Quellen stammt, wird sie anonym angeführt.<sup>28</sup> Folglich stammt auch unsere Halacha aus nachtalmudischer Quelle, d. h., da es vor Scheeltoth kein nachtalmudisches Halachawerk gibt, aus Scheeltoth, R. Acha hat die Halacha als Baraita gelesen, der Redaktor der Pesikta aber hat in seinem Scheeltothexemplar דתנו רבנן nicht gehabt, daher bloss למדנו רבותינו.

*Pesikta* N. 6 beginnt ebenfalls mit unserer Halacha<sup>29</sup> und der Uebergang zur Agada lautet: את מוצא זאת חנוכה שאנו עושים זכר לחנוכה . . . בית חשמונאי על שעשו מלחמה ונצחו לבני יון . . . דרשה בכ"ה ביה . . . מאי חנוכה דתנו רבנן בכ"ה בכסלו.

Sollte noch ein Zweifel über die Richtigkeit der vorstehenden Ausführungen bestehen, so wird er im folgenden endgiltig beseitigt.

d. *Pesikta* N. 2: שנו ילמדנו רבינו נר של חנוכה מאימתי היא מצותו. רבותינו משתחקע החמה עד שתסתלק רוב רגל מן השוק. Dieser Text ist doppelt auffallend, formell und sachlich.

1) *sachlich*: Die Halacha ist die Baraita 21b, dort lautet sie aber folgendermassen: מצותה משתחקע החמה עד שתכלה רגל מן השוק. Diesen Text haben alle alten Autoren<sup>30</sup> und auch Rabbinowicz vermerkt keine Variante. Ferner wird im Talmud zu dieser Baraita bemerkt: עד שתכלה רגל מן השוק וכמה רבה בר בר

<sup>28</sup> *Pes.* N. 13—*Soferim* N. 1—*Hal. Ged.* Vgl. w. unt. *Debarim* r. 7. 1 und 9. 1 aus unbekannter Quelle.

<sup>29</sup> ילמדנו רבינו נר חנוכה שהחית שמן מהו צריך לעשות למדנו רבותינו נר חנוכה שהחית שמן וכו' כדלעיל עד אסור להשתמש (בו) הימנו. Wir kennen beide Lesarten aus den Scheeltoth. Vgl. oben Anm. 24.

<sup>30</sup> *Soferim* XX, 4, *Meg.* Taanith IX, הלכות ראו S. 11; *Hal. Ged.* ed. Warschau 50b, ed. Hildesheimer S. 84. R. *Natronai* in שערי תשובה N. 233 und *Geonica* II, S. 242, N. XXXVIII. Vgl. oben I, Anm. 21. Seder R. Amram 36b: מצות נר חנוכה משתחקע החמה עד שתכלה רגל מן השוק ומאי נפקא מינה מי שלא הדליק: משתחקע מדליק עד שתכלה רגל מן השוק. Die ersten drei Worte kommen nur in den Resp. *Natronais* vor, so geht R. Amram auf dieses Resp. zurück. *Hal. Ged.* haben zwar auch die Halacha, aber מצותה. Unseren Talmudtext haben sämtliche Autoren des Mittelalters.

חנה אמר ר' יוחנן דכליא רגלא דתרמודאי, bis die Holzleser, die *letzten Passanten*,<sup>31</sup> von der Strasse verschwunden sind. Nach unserem Text aber ist der Termin das Verschwinden der Mehrzahl der Passanten.<sup>32</sup>

2) *formell*: Warum ist das erste Wort der Baraita מצותה weggelassen? Es ist geradezu ein Naturgesetz der Jelumdeni-Deraschoth den als Antwort angeführten halachischen Text ganz mitzuteilen, ohne Weglassung des schon in der Frage enthaltenen Satzes, z. B. נר חנוכה שהותר שמן מהו צריך לעשות לו. למדנו רבותינו נר חנוכה שהותר שמן... Es gibt in allen Jelumdeni-Deraschoth keine einzige Ausnahme von dieser Regel. Hier aber ist der Darschan auf einmal so wortkarg geworden, dass er sich das eine Wort מצותה erspart, weil es in der Frage enthalten ist. Wie ist diese merkwürdige Erscheinung zu erklären?

Darauf kann es nur eine Antwort geben: der Darschan hat die Baraita in dieser Form vorgefunden. Aber in *dieser Form kommt die Baraita nur noch in den Scheeltoth vor*: שילחא דמי חייבין דבית ישראל לאדלוקי שרגא דחנוכה מאימתי הוא מצותה כך שנו חכמי. <sup>33</sup> Darauf folgt *unmittelbar* שמן שהותר צריך נר חנוכה שמועיר שמן wie in Pes. N. 3. Der Darschan in der Pes. folgt also auch in bezug auf die Reihenfolge der Fragen den Scheeltoth. חכמי כך שנו חכמים musste er in שנו ändern, da seine Terminologie חכמים nicht kennt. R. Acha aber, der so ungemein häufig תנו רבנן gebraucht, hätte doch sicherlich nicht שנו רבותינו in שנו חכמים geändert.

Was aber den Widerspruch zwischen diesem Text der Baraita und der Erklärung des Talmuds betrifft, so gibt uns das schon erwähnte Responsum R. Natronais<sup>34</sup> Auskunft. Dort heisst es: וכן צריך לה לאחר שתכלה רגל מן השוק מכניסה וישתמש לאורה ומותר. ולמאן דאמר עד דפסקא רגלא דתרמודאי להחמיר אל המדליק. Es ist also die Erklärung des Talmuds, dass die *letzten* Passanten gemeint sind, bloss *eine* Ansicht, der eine andere gegenübersteht,

<sup>31</sup> Raschi z. St. Aruch תרמודאי (Kohut<sup>2</sup> VIII 279a). R. Natronai in den oben erwähnten Responsen und *Geonica* II, 322, N. XXIV.

<sup>32</sup> Schon von Friedmann hervorgehoben.

<sup>33</sup> So die Handschriften, Ausgaben: עד שתכלה רגל מן השוק wie im Talm.

<sup>34</sup> S. oben Anm. 30.

dass die *Mehrzahl* der Passanten gemeint ist. Diese Ansicht akzeptierte R. Acha<sup>35</sup> und fügte in den Text der Baraita das Wörtchen *רוב* hinein. Denn dass *רוב* in der Baraita ursprünglich ist, ist wegen der Erklärung R. Jochanans unmöglich. Nun spricht aber *שחלה* für diese Erklärung, daher hat R. Acha *שחלה* in *שחחלק* ändern müssen.

Es ist aber ausgeschlossen, dass Scheeltoth und der Darschan in der Pesikta unabhängig voneinander die Baraita in genau derselben Weise umgeformt hätten. Ein zufälliges Zusammentreffen ist bei einer solchen haargenauen Uebereinstimmung undenkbar. Ebenso undenkbar ist es, dass R. Acha, dessen Werk ganz auf dem babylonischen Talmud beruht, aus einem anderen Werke eine dem Babli widersprechende Halacha herübergenommen hätte.<sup>36</sup>

<sup>35</sup> Auch Hal. Ged., ed. Warschau 50b, kennen die Erklärung R. Jochanans nicht, nur ed. Hildesheimer S. 84 fügt sie hinzu. Auch הלכות פסוקות, Soferim und Meg. Ta'anit zitieren bloss die Baraita. Vgl. oben Anm. 30.

<sup>36</sup> Manche Autoren haben in den Scheeltoth zwei Stellen gefunden, in denen R. Acha mit Jeruschalmi gegen Babli entscheidet. Aber in beiden Fällen beruht die Behauptung auf einem Missverständnis. Ich zitiere der Kürze wegen den Wortlaut Poznanskis, der in seinen Studien zur gaonäischen Epoche das Thema Scheeltoth und Jeruschalmi ausführlich behandelt und das ältere Material zusammengestellt:

1: S. 13. N. 2: ויא' לנטורי באנרא אשלימו ליה אע"נ: (שם דף ל' ע"א): ואי לנטורי באנרא אשלימו ליה אע"נ: ויחייב מלומי וכו'. והעיר ע"ז בעל שאלת שלום דאוקמא בדוכחא דנשירותא וננבא או אבדה מיחייב לשלומי וכו'. והעיר ע"ז בעל שאלת שלום ס' כ"ד: יש לעיין בסוגיא שלפנינו ב"מ צ"ג ב' דמסיק דאין זה אלא בחזנא דמתא דוקא אבל שאר שומרים א"צ לשמור כל כך וכו' אבל כפי שמראה יה"ש בהחלוצי ה' 36 נמשך פה בעל השאלות אחרי הירושלמי כאשר כבר העיר הרא"ש בבבא מציעא ס' מ"ב שמביא שם דברי השאלות דפה. והכונה אל ירו' ב"ק ספ"ג: אמר רבי לעזר דברי רבי יודן מסר שור מועד לשומר חנם יצא והזיק נטרף פטור לשומר שכר יצא והזיק חייב נטרף חייב וכו' Kurz wiederholt in JQR. NS III, 405:

„Thus the passage in She'eltoth XX: ויא' לנטורי באנרא אשלימו ליה וכו' (with me No. 2) is after all influenced by B. K. 3.”

2: S. 15. N. 9: (שם דף צ"ג ע"ב): אי נמי ברם צריך חד חתים עלוי שטרא וחד קא מסהיד בפומיה מצטרפין בפומיה או לא וכו'. ע"ז כבר העיר הרשב"ש בתשובותיו ס' רנ"ה וס' תקכ"ו (וע' אהבת ציון וירושלים חלה 103) והבי' חז"ם ס' נ"א ד"ה שטר שאין חתום בו (הובא מאת רייפמאן בב"ח שם 52) כי פסק רב אחא בעל השאלות כהירושלמי נגד הבבלי וכוונתם למס' כתובות פ"ב ח"ד (דף כ"ז ע"ג שורה י"ז): ר' חניי א"ר זעירא בעו עד אחד בפה ועד אחד בשטר מהו שיצטרפו עד אחד בכתב כלום הוא.

1. Die Angabe B. Mezia, N. 42 ist ungenau. In Ascheri B. M. VII gibt es keine N. 42 und in N. 14 zu 93ab wird weder Jerusch., noch Scheeltoth zitiert. Gemeint ist wohl Ascheri B. Kama VI, N. 5, auf den העמק שאלה Anm. 31



Aus all dem ergibt sich mit absoluter Notwendigkeit, dass der Darschan in der Pesikta die halachische Einleitung in Pesikta N. 2 den Scheeltoth entlehnt hat, wie auch die in den Scheeltoth unmittelbar anschliessende halachische Pethicha in Pesikta N. 3.

Die Derascha in Pesikta N. 3. ist auch im Tanchuma I Naso § 29 enthalten: ילמדנו רבינו נר חנוכה שהותיר בה שמן ביום ראשון מהו להדליק בה בשני. כך שנו רבותינו נר חנוכה שהותיר בה שמן ביום ראשון מוסיף עליו כל שהוא ומדליקו ביום שני ואם הותיר ביום שני מוסיף עליו ביום השלישי ומדליקו וכן בשאר הימים אבל אם הותיר ביום שמיני עושה לו מדורה בפני עצמו למה כיון שהוקצה למצוה אסור להשתמש ממנו. Dieser Scheeltothtext weicht also nicht unerheblich von dem in der Pesikta ab.<sup>37</sup> Dagegen der agadische der Derascha stimmt wört-

verweist. Dort zitiert Ascheri zuerst die Stelle aus Scheeltoth und bemerkt dann: והכי נמי איחא בירושלמי פ"ב דשבועות רבי אבהו בשם רבי יוחנן נאמרה שמירה בשומר חנם ונאמר שמירה בשומר שכר ולא דמיא שמירה שנאמרה בשומר חנם לשמירה שנאמרה בשומר שכר דשמירה שנאמרה בשומר חנם שומר כל צרכו פטור ושמירה שנאמרה בשומר שכר אין משערין אותו אלא בגופו של אדם. משמע דלעולם הוא חייב בגניבה ואבירה אא"כ היה גופו שם ולא יכול להציל. R. Ascher sagt also nicht, dass R. Acha aus Jerusch. geschöpft hat und gegen den Babli ist, sondern dass aus dem Jerusch. das folgt, was R. Acha sagt. In der Tat ist die Stelle in Scheeltoth nichts anderes als eine erweiterte Wiedergabe der im Babli B. M. 93b von Abaje gegen Rabbah ins Treffen geführte Baraita: איחיביה עד מתי שומר שכר חייב לשמור עד כדי הייתי ביום אכלני חורב. וקרא בלילה ואי לנטורי באגרא אשלימו ליה אע"ז דאוקמה בדוכתא דנטירותא. Scheeltoth 30a: וקרא בלילה ונגבה או אברה מיחייב לשלומי ובעי למיתב בהדה לנטורה ביממא ובלילי' דהכי אשכחן ביעקב אבינו דאמר ליה ללבן נטרית לענך ביממא ובליליא הייתי ביום אכלני חורב וקרא בלילה. R. Acha steht also auf dem Standpunkt Abajes, dessen Ansicht auch von R. Chisda und Rabbah b. R. Huna geteilt wird: רב חסדא ורבה בר רב הונא לא סבירא להו הא דרבה דאמרי להכי יהבי לך אגרא לנטורי לי נטירותא יתירתא. So entscheidet auch Maimuni, III, 9, vgl. הנהגות ממוניות z. St., Anm. 7. So auch die meisten Dezisoren. Dass R. Jes. Berlin dies übersehen und die Antwort Rabbahs als מסקנא der Gemara ansieht, ist wahrlich ein Wunder. Wichtig ist der Text in Hal. Ged., ed. Warschau 193b und ed. Hildesheimer S. 392: רב חסדא ורבה בר רב הונא לא סבירא להו הא דרבה דאמרינן ליה להכי יהבי לך אגרא לנטורי לי נטירותא מעלייתא כדנטורי חזני מהא. Also eine direkte Widerlegung der Antwort Rabbahs.

Ad 2. In unserem Scheeltothtext ist von dem, was רשב"ש im Namen R. Achas anführen, nicht die geringste Spur vorhanden. Vgl. העקם שאלה. Und selbst die falsche Lesart, die ihnen—eigentlich ihrer Quelle, denn sie schöpften aus Sefer החרומות—vorgelegen, betrifft den Text des Babli und die angebliche Entscheidung R. Achas hat mit dem Jeruschalmi nichts zu tun.

<sup>37</sup> Die Varianten in der Antwort sind alle aus den Scheeltothzitataten bei den alten Autoren bekannt. S. oben Anm. 24. Aber auch der sonst nicht

lich mit der Pesikta überein. Wie ist dies zu erklären? Dass der Redaktor des Tanchuma die Derascha der Pesikta entnommen,<sup>38</sup> den halachischen Teil aber nach seinem Scheeltohtext geändert hätte, ist nicht wahrscheinlich. Es bleibt daher nichts anders übrig, als die Derascha im Ganzen dem Redaktor des Tanchuma abzusprechen und sie als einen späteren Zusatz zu erklären, von einer Hand herrührend, die auch sonst den Tanchuma mit zahlreichen Zusätzen bereichert hat und von der es bekannt ist, dass sie den Text der hinzugefügten Stücke geändert. Wir kennen auch diese Hand—die des Mantuaner Druckers. In der

bezeugte Text der Frage lässt sich als Lesart in den Scheeltoht nachweisen. Den Weg dazu zeigt das auffallende כל שהוא. Welchen Zweck hat es, ein Oels hineinzugeben? Dies erklärt sich folgendermassen: Die Frage מהו צריך לעשות לו lässt eine doppelte Auffassung zu: 1. Darf das zurückbleibende Oel zu profanen Zwecken verwendet werden? 2. Darf das zurückbleibende Oel für das nächste Chanukkahlicht gebraucht, oder muss für jedes Licht frisches Oel genommen werden? Vgl. הלכות קצובות oben I, N. 4, S. 377f. Vgl. Soferim XX, 4: ואין חוששין לפתילתו להחליפה עד שיכלה. Es hat also eine Ansicht gegeben, dass die Dochte täglich erneuert werden müssen. Vgl. auch Tur I, 673 im Namen des R. Meir aus Rotenburg. (Der Hinweis auf Soferim XX, 3 gehört nicht dazu, da doch von einer alten für Profangebrauch verwendeten Lampe die Rede ist.) Darauf die Antwort: es darf nicht zu Profangebrauch benützt, sondern muss für das nächste Licht verwendet werden, aber nur bei Hinzugabe von frischem Oel ומוסיף עליו. Dieser Satz kann aber auch so verstanden werden: dass man das Oel hineingeben muss, um das Quantum für die vorgeschriebene Brennzeit zu erreichen, nicht aber, weil wegen הידור מצוה frisches Oel erforderlich ist. Wenn es aber heisst כל שהוא, so wird der Zweck des Hinzugießens von Oel unzweideutig klar: ein minimales Tröpfchen Oels kann nicht als Ergänzung eines bestimmten Masses dienen und kann nur als Symbol aufgefasst werden, als Zeichen frischen Oels für das neue Licht. Vgl. den Brauch, in einen Becher Weines, von dem man getrunken, wodurch er פוטר wurde, etwas Wein oder Wasser zu geben und ihn so für eine Benediktion geeignet zu machen. Vgl. darüber *Rabiah* ed. Aptowitzer II, 145 und Anm. 3. Ein gelehrter Leser oder Abschreiber, der die Frage im Sinne von 2 verstand, fügte כל שהוא hinzu und formulierte die Frage מהו להדליק בה בשני. Nun hat, wie wir wissen, der Verfasser des *SMG* in seinem Scheeltohtext כל שהוא gelesen, so lautete in seinem Texte die Frage: מהו להדליק בה בשני.

Ein anderer Leser oder Kopist verstand die Frage מהו צריך לעשות לו im Sinne von 1 und drückte seine Auffassung durch die Frage aus: מותר לעשות בו כל צרכו או לא. So las *Rabiah*.

<sup>38</sup> Wie Friedmann, ohne jeden Anhaltspunkt, voraussetzt.

Tat fehlt unsere Derascha in allen Handschriften und alten Drucken und ist in ed. Mantua deutlich als Zusatz kenntlich gemacht.<sup>39</sup>

Ginzberg<sup>40</sup> setzt sich über diese Tatsache hinweg und meint Der Ausdruck מצות זקנים—im agadischen Teil der Derascha—für rabbinische Gebote, der bloss bei Palästinensern vorkommt, zeigt, dass die Derascha aus dem „echten Jelandenu“—d. h. dem von Ginzberg vorausgesetzten uralten Jelandenu, der aus früh-amoräischer Zeit stammen soll—herrührt.

Nun, zunächst kommt מצות זקנים auch im *Babli* vor.<sup>41</sup> Dann aber beweist der Gebrauch dieses Terminus höchstens die palästinische *Herkunft* der Derascha, sagt aber nichts in bezug auf ihre Zeit. Konnte nicht auch ein jüngerer palästinischer Autor den Ausdruck מצות זקנים gebrauchen? Uebrigens scheint Ginzberg selbst seiner Sache nicht sicher zu sein, denn er erwägt an einer späteren Stelle,<sup>42</sup> ob nicht doch למדנו רבותינו der Pesikta ursprünglich sei und demnach die Derascha nicht aus dem Jelandenu stamme.

Nun aber macht Ginzberg selbst auf die merkwürdige Tatsache aufmerksam, dass in den palästinischen Halachaquellen, den tannaitischen und amoräischen, keine Vorschriften über Chanukkah vorkommen.<sup>43</sup> Woher sollen nun in jenem Jelandenu, einer Agadasammlung, Halachoth über Chanukkah gekommen sein?

<sup>39</sup> Vgl. Buber, Einleitung S. 174 und besonders zu Tan. Naso §33 Anm. 190.

<sup>40</sup> *Ginze Schechter* II, 476, N. 67.

<sup>41</sup> Sukkah 46a.

<sup>42</sup> S. 504, N. 1.

<sup>43</sup> Die einzige Halacha betreffend Chanukkah in den alten palästinischen Quellen ist die Frage חנוכה על נר חנוכה ביצר מכרכין על נר חנוכה Jerusch. Sukka III, 4, 53d.—Das Fehlen der Chanukkahvorschriften in den palästinischen Quellen ist umso auffallender, als mehrere dieser Halachoth im *Babli*, Sabbath 21a–24b, von *palästinischen* Autoren, Tannaiten und Amoräern, herrühren. Dazu kommt, dass auch die ältere palästinische *Agada* Chanukkah fast gar nicht kennt. So enthält die alte Pesikta wohl eine Homilie über eine Torahlektion zu Chanukkah, ed. Buber 1a–10a, aber in dieser langen Predigt kommt das Wort Chanukkah nicht vor!

Was nun die Halacha betrifft, so erklärt Ginzberg: ש.עובדי האש' רק בבבל על מצוה זו וכל מצוה שמסרו ישראל נפשם עליה נתחזקה מאד ביריהם ודקדקו בה. עיין שבת סוף כ"א ובהוספות ב"ה ובשעה הסכנה. Aber diese Erklärung kann nicht genügen. *Purim* war weder in Palästina, noch in Babylonien verboten und

2. *Halachoth Gedoloth*

e. Pesikta N. 1: למדנו רבינו אדם מִישראל שִבִירךְ עַל הַמִּזְבֵּחַ בִּרְח' וְלֹא הִזְכִּיר שֶׁל ר'ח' כִּיצַד הוּא צָרִיךְ לַעֲשׂוֹת. לַמְדוּנו רְבוּתֵינוּ שֶׁכָּח וְלֹא הִזְכִּיר שֶׁל ר'ח' וּמִשְׁנֵמֶר בִּרְכַּת הַמִּזְבֵּחַ וְנוֹכַח מִיד עַד שֶׁלֹא הִסִּיחַ דַּעְתּוֹ מִן הַבִּרְכָּה אֵין צָרִיךְ לַחֲזוֹר לַכַּתְחִילָה אִלָּא נֹמְרָה בִּרְכָּה קִטְנָה בְּסוּף בִּא"י אִמָּה אֲשֶׁר Woher נתן<sup>44</sup> ראשי חדשים לישראל עמו<sup>45</sup> בא"י מקדש ישראל וראשי חדשים.<sup>46</sup> stammt diese Halacha? Die Bרכה קטנה, deren Urheber Rab ist, wird im Jeruschalmi<sup>47</sup> bloss bei Sabbath erwähnt. Im Babli aber, wo die „kurze Beracha“ auch in bezug auf Neumond vorkommt,<sup>48</sup> erklärt der Referent selbst, er wisse nicht, ob Rab die Benediktion mit einer Doxologie geschlossen habe.<sup>49</sup>

diesem Feste ist ein besonderer Traktat gewidmet, in der Mischna, in der Tosefta und in beiden Talmuden. Dass aber das Verbot gerade von den „Feueranbetern“ ausging, ist durchaus nicht sicher und wird von Tossafoth, Sabbath 21b v. וּבִשְׁעָתָה וְ45a v. מִקְמִי bestritten. Auch R. Hai erklärt allgemein: ובשעת הסכנה בשעת השמר שנוזרין שלא להדליק. Vgl. *Ozar haGeonim*, ed. Lewin, II, 2, S. 11. Es kann sich also um *Palästina* handeln, besonders da der Satz in einer *Baraita* steht.

Wenn ich nicht gewisse Rezensenten fürchtete, würde ich die Tatsache, dass Chanukkah in den palästinischen Quellen ignoriert wird, aus *politischen* Motiven erklären: Die antihasmoneische Politik der Phariseer-Davididen lebte im Patriarchenhouse als Familientradition fort und war daher auch im Volke nicht ganz vergessen. Vgl. Aptowitzer, *Parteipolitik*. Die Gelehrten aber, Halachisten und Agadisten, standen in Beziehung zum Patriarchenhouse und in Abhängigkeit von demselben. In Palästina konnte mit Chanukkah nicht viel Aufhebens gemacht werden. In Babylonien aber, fern vom Schauplatz jener Parteikämpfe, konnte kein Hass gegen die Hasmonäer entstehen. Und Hyrkan II wurde während seines Aufenthaltes in Babylonien im Jahre 36–35 von den dortigen Juden mit Liebe und Ehre behandelt. Jos. *Ant.* XV, 2, 2; Grätz III, 198.

<sup>44</sup> Im Talmud bloss אשר נתן ברוך, aber bei alten Autoren: בא"י אִמָּה אֲשֶׁר נתן. Vgl. *Rabiah*, ed. Aptowitzer, I, 118, N. 131 und Anm. 13.

<sup>45</sup> Im Talmud: לַעֲמֹד יִשְׂרָאֵל לְזִכְרוֹן. Vgl. jedoch ד"ס 131a, Anm. 2.

<sup>46</sup> Pes. r., ed. Friedmann, 1a.

<sup>47</sup> Jerusch. Ber. VII, 5, 11c: לעמו אשר נתן מנוחה לעמו ישראל.

<sup>48</sup> Ber. 49a: הדרר רבי יוחנן רב גידל ויחייב רב גידל קמיה דרב הונא וכו' הדרר יחייב וקאמר טעה ולא הוזכר של ראש חודש אומר ברוך שנתן ראשי חדשים לעמו ישראל לזכרון ולא ידענא אי אמר בה שמחה אי לא אמר בה שמחה אי חתים בה או לא חתים בה.

<sup>49</sup> Dem entsprechend entscheiden hervorragende Dezisoren, dass die Beracha keine חתימה hat, da die Frage im Talmud offen blieb. Vgl. *Rabiah*, ed. Aptowitzer, I, 119 und Anm. 10.

Aber in den *Halachoth Gedoloth*<sup>50</sup> lautet die "kurze Beracha" ברוך אשר נתן ראשי חדשים לעמו ישראל לזכרון ברוך מקדש ישראל וראשי חדשים. In HG I folgt noch der Satz: דכי אחא רב דימי אמר רב חתים בר"ח מקדש ישראל וראשי חדשים. Der Verfasser der HG hat also die חתימה aus dem Babli.<sup>51-57</sup> Aber der Redaktor der Pesikta oder der Verfasser der Jalamdenu-Derascha hat diesen Text im Babli nicht gehabt, denn wäre dies der Fall gewesen, so hätte er die Halacha im Namen Rabs oder R. Dimis angeführt, wie er immer amoräische Sätze im Namen ihres Autors mitteilt. Folglich hat der Verfasser unserer Jalamdenu-Derascha die Halacha aus den *Halachoth Gedoloth* herübergenommen, wie die Einleitung רבותינו רבותינו anzeigt.

### 3. R. Jehudai Gaon

f. In der Pesikta r. werden zwei agadische Ausführungen im Namen von רבינו הקדוש angeführt: 1) דבר אחר שובה ישראל עד ה' אלהיך דרש רבינו הקדוש גדול כחה של תשובה שכיון שאדם מהרהר בלבו לעשות תשובה מיד הוא עולה. (לו) [לא] עד עשרה מילים ולא עשרים ולא עד מאה אלא עד מהלך חמש מאות שנים. ולא עד הרקיע הראשון אלא עד רקיע (השני) [השביעי]. ולא עד רקיע (השני) [השביעי] אלא שהיא עומדת לפני כסא הכבוד. כן הושע אומר שובה [ישראל] עד ה' אלהיך.<sup>58</sup>

Friedmann verweist auf Pes. d. R. Kahana 163b, wo die Agada im Namen R. Jehuda II im Namen von R. Juda b. R. Simon mitgeteilt wird.<sup>59</sup> In Wirklichkeit aber haben die beiden Agadoth nur den Grundgedanken gemeinsam, der auch im Babli vorkommt,<sup>60</sup> in der Ausschmückung des Gedankens aber

<sup>50</sup> Ed. Warschau 28a, ed. Hildesheimer S. 50.

<sup>51-57</sup> Vgl. darüber Aptowitzer, *ha-Zofeh*, ed. Blau, I, 90-92. *Rabiah*, I, 119, Z. 6 bemerkt חתימה ש ל מ י איכא חתימה אלא, worauf Hag. Maim. zu Berachoth II, 12, N. 7 zurückgeht. Auf Grund der Angabe in Hag. Maim. hat nun Poznanski, עינים שונים S. 25, unsere Hal. Ged.-Stelle unter die Beweise für die Benützung des Jeruschalmi seitens der Hal. Ged. angeführt. Er hat, ebenso wie Ratner, *Ahabath Zion*, Ber. S. 176—dem er folgt—Hal. Ged. I übersehen. Vgl. zur Frage Aptowitzer zu *Rabiah*, a. a. O., Anm. 11-12.

<sup>58</sup> N. 44, 185a.

<sup>59</sup> ר' יודה נשייה (קלא) בש"ר יודה בר סימון, מנהגו של עולם אדם יורה חץ כמה מהלך בית כור, או בית כוריס, גדול כחה של תשובה שמנעת עד כסא הכבוד (קלב) ושנאמר שובה ישראל עד ה' אלהיך.

<sup>60</sup> Joma 86a.





französischen Gelehrten, ohne auf eine Erklärung der „Fragen“ einzugehen. J. Müller<sup>65</sup> setzt ohne weiteres voraus, dass רבינו הקדוש R. Jehudai Gaon ist, der קדוש וטהור genant wird.<sup>65a</sup>

Die Annahme Müllers ist absolut richtig, was aus der Wendung שאלות שנשאלים לפני folgt. Die Sammlung kurzer Responsen des R. Jehudai, die uns in zwei Versionen vorliegt,<sup>66</sup> hat vor jeder Frage die Einleitung שאלו לפניו = שאלו מקמיה. Diese Sammlung enthält auch Fragen agadischen Inhaltes,<sup>67</sup> darunter auch eine

מלכא durch ein—nicht existierendes—französisches Wort ■■ ersetzen. In der Tat hat Güdemann in seinem Glossar zu Pes. r. ed. Friedmann dieses angeblich französische Wort nicht aufgenommen. Damit hat er stillschweigend sein Urteil über diesen Einfall Friedmanns gesprochen.

Man kann Friedmann und Weiss den Vorwurf nicht ersparen, dass sie die Stelle, in der das fragliche Wort vorkommt, nicht näher angesehen haben. Die Stelle lautet: מורח שממנו יוצא לעולם יהא שבט לוי כנגדו שנאמר והחונים לפני המשכן קדמה לפניו (Num. 3.38). ומנין שלוי נקרא אור שנאמר חומיך ואוריך לאיש חסידך (Deut. 33.8). ועליו שבט יהודה שהם ראויין שנאמר (Num. 2.3) והחונים מורחה דגל מחנה יהודה לצבאותם.

Es fehlt also die Begründung dafür, dass *Juda* im Osten lagerte—*Weil auch er Licht genannt wird*. Diese unentbehrliche Begründung fehlt auch in den Paralleltexten: Midrasch Kohen in *Beth ha-Midrash*, ed. Jellinek, II, 38: מורח שממנו יוצא אור יהיו כנגדו מי שהוא אור וכן כתוב והחונים קדמה מורחה דגל מחנה יהודה. שהוא מלך. Vgl. noch Num. r. 2. 10 und דרש לסכוח im *Beth ha-Midr.* VI, 49: מורח שממנו יוצא אור לעולם לוי כנגדו שהוא אור ויהודה שהוא מלך ישראל = Pes. r. Es wird also in allen Texten als bekannt vorausgesetzt, dass *Juda*, weil *König*, *Licht* genannt wird. Dies wird in einem Texte ausdrücklich gesagt: ולמה חנו דגל מחנה יהודה מן המורח לפי שמן המורח אורה באה לעולם ובטלך כתיב *Mid. Agada*, ed. Buber, zu Num. 23, S. 80. Es ist also über jeden Zweifel erhaben, dass ■■ in der Pesikta heissen muss: ועליו שבט יהודה שהם אוריין und im Anschluss an ihn der Stamm *Juda*, der *Licht* ist.—Die Gleichung *Juda*—*Licht* hängt wohl auch mit der Gleichung: *Messias*, der von *Juda* stammt—*Licht*, zusammen. Vgl. Aptowitzer, *Parteipolitik*, S. 237, Anm. 13. Im Lichte des Lichtes ist also das Franzosentum unseres Darschan, eines schlichten Palästinensers, verschwunden.

Es ist aber auch gar nicht ausgemacht, dass die *Piska* ein späterer Zusatz ist. Den Hauptbeweis dafür—sie steht angeblich nicht am richtigen Platze—hat Epstein, *Beiträge zur jüdischen Altertumskunde*, I, 87, erledigt.

<sup>65</sup> S. 73, Anm. 2.

<sup>65a</sup> Zu den von Müller angegebenen Quellen vgl. noch Ben Baboj in *Ginze Schechter*, II, S. 557, Zeile 1: והיה גדול בקדושה ובטהרה ובחסידות ובענוה.

<sup>66</sup> *Resp. der Geonim*, ed. Lyck, N. 45, תורתן של ראשונים II, 5ff.

<sup>67</sup> Die Fragen 15, 36–42 in ed. Lyck, vgl. תשרי S. 5.

Frage betreffend eine Stelle in der *alten Pesikta*.<sup>68</sup> Diese war also R. Jehudai bekannt; so ist es leicht möglich, dass er in einem Vortrage einen Gedanken der *Pesikta* verwertet hat: **דרש רבינו הקדוש**.

#### 4. Ein gaonäischer Brauch

Zuvor aber muss folgende Frage erörtert werden.

Friedmann<sup>69</sup> zitiert als Beweis für das hohe Alter der *Pesikta* eine in MSS. Wien und Halberstam enthaltene gaonäische Responsum, in dem unter dem Namen **משנה חיצונה** eine Stelle aus *Pesikta rabbati* angeführt wird. Nun, im Allgemeinen sagt dies für das Alter der *Pesikta* gar nichts, da die gaonäische Epoche bis in die Mitte des 11. Jahrhunderts hineinreicht. Aber das Responsum—N. 132—befindet sich in der Sammlung nach Responsen R. *Natronais*, was—wie oft—als Anhaltspunkt dafür dienen kann, dass es ebenfalls diesem Gaon gehört.<sup>70</sup> Wäre nun dies sicher, so ergäbe sich daraus eine grosse Schwierigkeit. Die *Pesikta* selbst gibt gleich am Anfange<sup>71</sup> das Datum ihrer

<sup>68</sup> Frage 33: **חוב שמ"ק פירושא דהדן פסוקא מי עלה שמים וירד משה. מי אסף רוח בחפניו:** אהרן דכתיב קחו לכם מלא חפניהם. מי צרר מים כשמלה אליהו שהכה את המים באדרתו. מי הקים כל אפסי ארץ משיח. ואמר דתני בשעה שאמר העם מה זה היה לבן קיש הנם שאול בנביאים ויען איש משם ויאמר ומי אביהם. מאי ומי אביהם אמר להם וכי יש אב לרברי תורה והלא כבר נאמר מה שמו ומה שם בנו כי תדע אלמא תורה לאו ירושה. הכי קאמר חזו כמה נפיש משה דעלה לשמים. אהרן דאסף רוח. אליהו דצרר מים. משיח דקם כל אפסי ארץ. מי הווי להו בני דהוו נפישין כווחהון ויכלון למעבד כווחהון מה שמו ומה שם בנו כי תדע. מהכין תדע דתורה לאו ירושה. וכתיב בהדין ענינא בית והון נחלת אבות ומה' אשה משכלת בחורה קאמר קרא. *ist nicht richtig*, da es sich nicht um Erklärung von Spr. 30. 4 handelt, sondern einer an diesen Bibelvers geknüpften Agada. Aehnliche agadische Deutungen dieses Bibelverses kommen in der *alten Pesikta* 5b vor: das einermal wird der ganze Bibelvers auf *Elia* und das andere Mal auf Mose gedeutet. Viel näher steht unser Text der Agada in Midrasch Mischle z. St., ed. Buber, S. 104: **מי עלה שמים וירד זה משה, מי אסף רוח בחפניו זה אהרן, מי צרר מים בשמלה זה אליהו.** Dann folgen dieselben Deutungen wie in der *Pesikta*. So ist es wahrscheinlich, dass *auch* diese Deutung in der *Pesikta* enthalten war und auch noch die Deutung, die R. Jehudai hat, so dass für *Pesikta* zu lesen ist: **פסוקא ופסיקא**. Die zur Erklärung mit *חני* angeführte Agada ist Tosefta Baba Mezia, III, 25. Vgl. Kommentare z. St.

<sup>69</sup> Einleitung zu Pes. r., S. 24f.

<sup>70</sup> Vgl. Müller z. St.

<sup>71</sup> 5b unt. Vgl. Zunz, *Vorträge* S. 255, Weiss, *Zur Geschichte* III, 28; IV, 25, Anm. 6, Isidore Loeb, *REJ*, I, 312; Israel Lévi *REJ*, XXXII, 281; Bacher

Abfassung ganz genau an: 777 nach Zerstörung des Tempels = 845. Das Responsum, wenn es Natronai (857–867) gehört, wurde spätestens 20 Jahre nach Entstehung der Pesikta geschrieben und da konnte der Gaon doch unmöglich ein so junges Werk, wenn er es überhaupt gekannt hat, als autoritative Quelle, als *Baraitasammlung* (משנה חיצונה) zitieren.

Für die Lösung des Problems gibt es nur zwei Möglichkeiten: entweder gehört das Responsum nicht Natronai, sondern einem viel Späteren, oder das Datum in der Pesikta stammt nicht vom Verfasser oder Redaktor selbst, sondern von einem späteren Kopisten oder Leser.<sup>72</sup> Aber die letztere Annahme scheint durch den Inhalt der Stelle ausgeschlossen. Daher hat auch Friedmann, der später diese Erklärung in bezug auf Seder Elia mit soviel Schärfe und auch mit grossem Erfolge verteidigt, betreffs der Pesikta sie nicht in Erwägung gezogen. *Friedmann* erklärt nun, dass die Rechnung nicht nach der Zerstörung des zweiten Tempels geht, sondern nach der des ersten. So ergibt sich für die Abfassungszeit der Pesikta das Datum 355. Aber diese Erklärung kann nicht als sehr glücklich bezeichnet werden. Es ist undenkbar, dass einige Jahrhunderte nach der Zerstörung des *zweiten* Tempels ein Agadist den Einfall gehabt, den Untergang des *ersten* Tempels zu beklagen: es sind schon 777 Jahre seit der Zerstörung des Hauses unseres Lebens verflossen. Es bleibt daher nichts anderes übrig, als das fragliche Responsum Natronai abzusprechen. Es gehört wohl dem Author des Responsums N. 171 in derselben Sammlung, der ebenfalls die Pesikta-stelle und mit denselben Worten anführt.<sup>73</sup> Der Author dieses

*REJ*, XXXIII, S. 43, *Ag. pal. Am.*, III, 494 Anm. 3. I. Lévi, *REJ*, XXIV, 283; „... et la Pesikta, dont la dernière rédaction est du VIII<sup>e</sup> siècle.“ Wahrscheinlich muss es heissen: „IX<sup>e</sup> siècle.“

<sup>72</sup> Wie z. B. die Daten in Seder Elia und in anderen Werken. Vgl. darüber Friedmann מבוא zu *Seder Elia*, S. 86f. So auch das zweite Datum in der Pesikta.

<sup>73</sup> No. 132: ואנו שוין במשנה חיצונה לא תשא את שם ה' אלהיך לשוא א"ר סימון אם בשבועת שקר הכתוב מדבר הרי כבר אומר לא תשבועו בשמי לשקר אלא שלא תהיה מתכסה בטלית ומתעטף בציצית ועובר על ד"ת במטמוניות ותעין פניך לברך ראשון ולפתוח ראשון (Hosea 4.9) וליטול מנה ראשון וכן הוא אומר כעם ככהן ופקדתי עליו (Genau dasselbe in No. 171 mit folgender Variante: אי נמי שלא ועובר על דברי חורא במטמוניות אי נמי פ"ך מנובל בדברי נבלה ותעין פניך. Die gesperrten Worte scheinen in No. 132 ausgefallen zu sein. Störend ist אי נמי, dass in einer palästinischen Quelle nicht vorkommen kann. In der Pesikta lautet die Stelle folgender-

Responsums ist wahrscheinlich ein europäischer Gelehrter aus dem 11. Jahrhundert.<sup>74</sup>

Friedmann sagt ferner: „Ebenso findet sich in den Responsen der Geonim (Lyck 624) in einem Responsum des R. Paltoij Gaon die Stelle der Pesikta N. 22: ‚Warum legt man vor einem, den man schwören lässt, aufgeblasene Schläuche hin usw.’.“<sup>75</sup> Wäre diese Angabe richtig, so stünden wir vor derselben Schwierigkeit wie im Vorhergehenden, aber ohne denselben Ausweg, da das fragliche Responsum—ed. Lyck N. 10—wirklich R. Paltoij, dem älteren Zeitgenossen Natronais, gehört. Zum Glück aber kommt die angedeutete Pesiktastelle in dem Responsum nicht vor. Dort wird der Vorgang bei der Durchführung des Bannes an Eidesstatt (גוֹרְחָא, גוֹרְחָא) dargestellt und dabei auch die symbolische Bedeutung der vollgeblasenen Schläuche angegeben, ohne dass irgendwelche Quelle angeführt wird.<sup>76</sup> In der Tat ist die גוֹרְחָא mit ihrem Zeremoniell viel älter als die Pesikta.<sup>77</sup>

לא תשא ונ' א' ר' ב' ב' א' בשבועה שוא הכתוב מדבר: (N. 22, S. 111b) והלא כבר נאמר לא תשבועו בשמי לשקר מה תלמוד לומר לא תשא את שם ה' אלהיך לשוא שלא תשא אמר רבי סימון אם בשבועה שוא הכתוב מדבר והלא כבר נאמר לא תשבועו בשמי לשקר ומה תלמוד לומר לא תשא את שם ה' אלהיך לשוא זו היא שבועה אמת שהיא של שוא. Zur Erklärung des Zitates im Responsum muss also angenommen werden, dass der Autor die beiden Pesiktastellen miteinander vermengt hat und dass der Text in der Pesikta lückenhaft ist. Die Vermengung ist aber wegen der Wiederholung nicht wahrscheinlich. Vielleicht auch gehören die beiden Responsen nicht einem und demselben Autor, wodurch die Vermengung noch unwahrscheinlicher wird. Es ist daher sehr zweifelhaft, ob der Text im Responsum auf die Pesikta zurückgeht. Unser Pesiktatext wird auch *Schibbole ha-Leket*, 191b bestätigt.

<sup>74</sup> Vgl. Müller zu beiden Stellen. Im מפנה, S. 114, N. 182, unter den Responsen Natronais setzt er dem Responsum N. 132 ein Fragezeichen vor.

<sup>75</sup> Friedmann, Einleitung S. 25: (שנדפסו בליק תרכ"ד): 'לר' פלטי נאון הא דפר"ב מפני מה משבעין את האדם ונותנים לפניו נודות מנופחות וכו'.

<sup>76</sup> ויבאו מטה שנושאים בה מחים ויפרשו עליה כלים שהם פורשים על המחים ויוציאו שופרות והניקוחות של בית הכנסת ויבאו נודות נפוחים וישליכו אותן לפני המטה ויאמרו בית דין לאותו אדם שמשבעין אותו, הוי יודע שלמחר אותו האיש מושלך אמר רבי סימון מפני מה משבעין את האדם ונותנים לפניו נודות מנופחות ותוקעים בשופרות, לומר אחמול היו מלאים גידין ועצמות ועכשיו הם ריקות מכולם כך כל מי שנשבע על השקר לחבירו סופו לצאת ריקם מכל נכסיו. Uebrigens kommt ja dieselbe Agada in Lev. r. 6. 3 vor, so dass der Gaon selbst wenn er auf eine literarische Quelle zurückgeht, aus Lev. r. geschöpft haben kann.

<sup>77</sup> Vgl. Aptowitzer, *Tarbiz* I, 4 S. 85f.



Nun sind wir wieder bei unserem eigentlichen Thema angelangt. Vergleicht man nämlich den Text dieser Agada mit ihrer Quelle in Lev. r., so nimmt man zwei Differenzen wahr. 1. Lev. r. lautet die Frage: „Warum lässt man den Menschen schwören bei einer Thorarolle,“<sup>78</sup> während es in der Pesikta bloss heisst: „Warum lässt man den Menschen schwören,“ ohne die Thorarolle zu erwähnen.<sup>79</sup> 2. Pes. r. erwähnt auch das Stossen in die Posauen,<sup>80</sup> was in Lev. r. fehlt. Die Pesikta stimmt also vollständig mit dem babylonischen Brauch überein: Schwur ohne Halten einer Thorarolle und mit Verwendung der Posaune.<sup>81</sup> Nun rührt aber die Aufhebung des Thoraeides von R. Jehudai her,<sup>81</sup> was mit unseren früheren Ausführungen übereinstimmt.

Eine ähnliche Schwierigkeit ergibt sich aus der Behauptung Zunz', dass schon Kalir die Pesikta benützt hat.<sup>82</sup> Für Zunz besteht in dieser Angabe keine Schwierigkeit, da er Kalir in der zweiten Hälfte des 10. Jahrhunderts blühen lässt.<sup>83</sup> Nach den Ergebnissen der neueren Forschung aber lebte Kalir spätestens um 750,<sup>84</sup> so müsste dann das Datum in der Pesikta als nicht ursprünglich bezeichnet werden, was aber, wie wir oben gesehen, nicht zulässig ist; so stünden wir vor einem unlösbaren Problem. Aber auch hier ist glücklicherweise die Behauptung Zunz' nicht richtig. Zunz begründet seine Angabe wie folgt:

„In dem Stücke *אז בכתב אשורית* (in dem Wochenfeste) ist der Inhalt des 21. Abschnittes (f. 37 und 38, vgl. Jalk. Exod. f. 80 cd) fast wörtlich angebracht; desgleichen in *אלה העדות והחוקים*. In dem Klageliede *אז במלאת ספק* wird die Parabel aus N. 27 (f. 48ab, vgl. Jalk. Jerem. 300 f. 64d) behandelt.“<sup>85</sup>

Nun, was die Piutim zum Wochenfest betrifft, so geht die

<sup>78</sup> מפני מה משביעין את האדם ב ס פ ר ת ו ר ה ומביאין לפנינו נודות נפוחים.

<sup>79</sup> מפני מה משביעין את האדם ונותנים לפנינו נודות מנופחות ותוקעים בשופרות.

<sup>80</sup> Vgl. die vorhergehende Anmerkung.

<sup>81</sup> Vgl. Aptowitzer, a. a. O., S. 67f.

<sup>82</sup> Zunz, *Vorträge*,<sup>2</sup> S. 256 und Anm. 3.

<sup>83</sup> Das. SS. 317, 395f.

<sup>84</sup> Vgl. Eppenstein, *Beiträge zur Gesch. und Literatur im gaonäischen Zeitalter*, S. 38f., Elbogen, *Der jüdische Gottesdienst*, S. 316. Eppenstein (zweite Hälfte des siebenten Jahrhunderts) und Elbogen (um 750) differieren fast um ein Jahrhundert.

<sup>85</sup> Die Stelle in Pes. N. 26 Ende, ed. Friedmann 131b f.

Pesikta rabbati selbst auf die alte Pesikta zurück,<sup>86</sup> so dass Kalir aus der alten Pesikta geschöpft hat. In der Tat folgt Kalir in einem Punkte, wo die Pes. r. von der alten Pesikta abweicht, der alten Pesikta.<sup>87</sup>

Die Kina aber ist in ihrem Hauptinhalte, dem Gespräche zwischen Jeremia und der Frau, grundverschieden von den Reden der Frau und Jeremias in der Pesikta.<sup>88</sup> Dadurch wird es gewiss, dass auch in bezug auf die Einleitung—die Parabel—wo beide Texte manch gemeinsame Züge haben, eine Beziehung zwischen ihnen ausgeschlossen erscheint. Die gemeinsamen Züge aber sind teils der Bibel, teils dem rabbinischen Schrifttum entnommen—Quellen, die jedem Schriftsteller zugänglich sind.

a. Das früher in Herrlichkeit prangende, jetzt zerstörte Zion als eine schöne, durch Trauer entstellte, klagende Frau darzustellen, kann jeder mit etwas Phantasie begabte Schriftsteller aus Eigenem treffen, selbst wenn er Jesaja, Jeremia und das erste Kapitel des Klageliedes nicht gelesen hat: „Jerusalem, das ehemals volkreiche, ist wie eine Witwe geworden, die die Entfernung ihres Mannes und den Verlust ihrer Kinder beklagt.“

In der Agada aber heisst es: a. „Jerusalem war wie eine Witwe“ (Threni 1, 1)—aber nicht wirklich eine Witwe, sondern wie eine Frau deren Mann in ein fernes Land zog, mit der Absicht

<sup>86</sup> Die Sätze bei Kalir: Pes. r. 102b = alte Pesikta 10; Pes. r. 105a = alte Pes. 109a (אנכי); Pes. r. 109b = alte Pes. 109a (אלף בית); Pes. r. 105a = alte Pes. 109a (בהרבה פנים); Pes. r. 104b = alte Pes. 109a (אנכי לי נותרין); Pes. r. 101b = alte Pes. 110a (אלף קורא חנר).

<sup>87</sup> Pes. r. 105b: ההחיל הקב"ה מסיח עמהם בלשון אנכי אניך;

alte Pes.: אמר הקב"ה הרי אני מסיח עמהם בלשון מצרי אנכי;

Kalir בכתב אשורית ובלשון עברית ובדבור מצרית: או בכתב.

<sup>88</sup> Die Rede der Frau bei Kalir ist in unseren agadischen Quellen nicht nachweisbar. Aber die Fortsetzung der Kinna—Gott fordert Jeremia auf, die Erzväter, Ahron und Mose herbeizurufen, damit sie Klage erheben—und der Inhalt des folgenden Stückes או בהלך—Klagen und Bitten der Erzväter—stammen aus Echa r. Proömium 24 ed. Buber 13a f. Mid. zutta S. 72f.—In der Pesikta wird das Schicksal Zions mit dem Jobs verglichen, im Unglück und auch in der Hoffnung auf Wiederaufrichtung. Dies stammt aus der alten Pesikta, 126b. Vgl. Mid. Zutta S. 64. Auffallenderweise meint auch Ginzberg, *Legends of the Jews*, VI, 403 Anm. 43: A poetical rendering to this vision is Kalirs dirge במלח או in קינות according to the Ashkenazic ritual.

zurückzukehren.<sup>89</sup> b. „Und ihre Tränen auf ihren Wangen“ (Threni 1, 2)—wie eine Frau die den Mann ihrer Jugend beweint, wie es heisst: Wehklage, einer Jungfrau gleich, die mit dem Trauergewand umgürtet ist wegen des Verlobten ihrer Jugend (Joel 1. 8).<sup>90</sup> c. Jerusalem gleicht einer Matrone, die drei Freunde hatte, der eine sah sie in ihrer Herrlichkeit, der andere in ihrer Sündhaftigkeit, der dritte sah sie in ihrer Entstellung; Jememia sah Jerusalem in seiner Entstellung und Zerstörung.<sup>91</sup>

b. In der Agada erscheinen Dämonen häufig in Gestalt einer schönen Frau,<sup>92</sup> so dass die Frage Jeremias: bist du ein Menschenkind oder ein Geist, berechtigt, natürlich war, wie sogar in der *Halacha* bei verschiedenen Gelegenheiten die Frage aufgeworfen wird: vielleicht ist es ein Dämon.<sup>93</sup>

<sup>89</sup> Synhed. 104a unt.: כאלמנה ולא אלמנה ממש אלא כאשה שהלך בעלה למדינת הים ודעתו חוזר אליה. Und in der Pesikta sagt die Frau: אני היא שהיו לה שבעה בנים, יצא אביהם למדינת הים עד שאני בוכה עליו וכו'. Vgl. den Text in der folgenden Anm.

<sup>90</sup> Synhed. 104b: כאשה שבוכה על בעל נעוריה.

<sup>91</sup> Alte Pesikta 121b: ירמיה ראה אותה בניוולה. Dem entspricht bei Kalir: בן חלקיהו מארמון מצא אשה יפת תאר מנוולה מצא. Was bei einer Frau Entstellung, Verunstaltung ist, erfahren wir aus der Mischna Sota 15.7: Der Sota wurde des *Haar aufgelöst* und sie wurde mit *schwarzen Gewändern bekleidet*. Mass fur Mass: sie hat sich für die Sünde geschmückt, daher hat Gott sie verunstaltet. וסותר את שער... היתה מכוסה לבנים מכסה בשחורים... במדה שאדם מודד מודדין לו, היא קשטה עצמה לעבירה המקום מנוולה. Daher in der Pesikta: לבושה שחורים ושערה סחור = eine Sotah. Als Sotah erscheint Jerusalem in Pes. r. 129a.

<sup>92</sup> Vgl. Tanch. ed. Buber בראשית §26; מקץ §15; Jerusch. Sab. 133b. Vgl. Aptowitzer, *Parteipolitik*, S. 210.

<sup>93</sup> Man darf in der Nacht seinen Nächsten nicht begrüßen, vielleicht ist es ein Dämon. Megillah 3a; Synhed. 44a; vgl. Gittin 66a. In der Mischna Jebamoth XII, 6 heisst es: „Es ereignete sich einmal, dass ein Mensch auf dem Gipfel eines Berges stand und rief: NN. aus jenem Orte ist gestorben. Man ging hinauf und fand keinen dort, trotzdem hat man seiner Frau zu heiraten erlaubt. Dazu wird im Talmud gefragt: vielleicht ist es ein Dämon? Jebamoth 122a, vgl. Jerusch. das. 15a unten. Auch in der Pesikta sieht Jeremias die Frau auf dem Gipfel eines Berges sitzen.

Bei Kalir heisst es: שד לשדים את או לבני אדם. Zu Ruth 3. § heisst es in der *Agada*, dass Boas gefragt hat: bist du ein Geist oder ein Frau? Ruth r. 6. 1. Vgl. auch Tan. II כהן §16, כהן §8 (Tan. I §3 fehlt dieser Passus). Eine genaue Entsprechung zu Kalir ist Mid. zutta Ruth, ed. Buber S. 53: Er beschwor sie: Wenn du ein Geist bist, so hebe dich hinweg

Die Verwendung dieser beiden Motive bei zwei jüdischen Schriftstellern bietet also nicht den geringsten Anhaltspunkt für die Annahme einer Abhängigkeit des einen vom anderen.<sup>94</sup>

ונשבע לה [והשביע, Es heisst dann in der Agada, dass Boas das Kopfhaar der Ruth berührte, wodurch er sich überzeugt hat, dass sie eine Frau sei, da die Dämoninnen kein Haar haben, שהרוחות אין להן שער. Dagegen heisst es in der älteren Agada, dass die Frau ihr Haar wachsen lässt wie die Lilith—die Mutter der Dämonen—Erubin 100b).

Der Frage: bist du Geist oder Mensch, mit der Beschwörung begegnen wir noch einmal in einer jüngeren Agada, in mancher Version der bekannten Erzählung von der Begegnung R. Akibas mit den Toten: משביע אני אותך בשבועה, שהאמר אם אתה בן אדם או שר או מאי זה בריה אתה Dekalogmidrasch bei Jellinek, *Beth Hamidrasch* 180. In *Menorath Hamaor* des R. Isak Aboab 1. Licht, 2. Teil 1. Kapitel ist es bloss eine Frage המזיקין אתה או מן המזיקין אתה.

<sup>94</sup> Ebensowenig ist es nötig, mit Israel Lévi *REJ*, XXIV, 281f., die Parabel der Pesikta von IV Esra 9–10 (Kautzsch, *Apokryphen* II, S. 386f.) abhängig zu machen. Die beiden Texte haben bloss (a) die Erscheinung Zions als klagende Frau und (b) die Worte Jeremias „du bist nicht besser als meine Mutter Zion“ gemeinsam. Was nun (a) betrifft, so haben wir schon oben bemerkt, dass das Bild aus der Bibel und der Agada stammt. Aber auch die Bezeichnung Zions als Mutter Israels ist aus der Agada bekannt. Schon in der Rabbathi selbst, in derselben Piska, 129b, klagt Jeremia: „Wehe mir über dich, meine Mutter Zion.“ Vgl. auch 129a, wo Jeremia bei seiner Geburt seine Mutter als טוטה bezeichnet und auf ihre Frage, wie er zu solch ungeheuerlichen Rede käme, antwortet: „Ich meine nicht dich, ich meine Jerusalem.“ Die Quelle dieser Metapher ist die alte Pesikta 141a: וזו (Psalm 113.9) מושיבי עקרת הברית ציון, רני עקרה לא ילדה (Jes. 54.1), אם הבנים שמחה—ואמרת בלבבך מי ילד ובהיא שעתא עתידא ציון דהיא אימן (Jes. 49.21) לי את אלה. Targ. Cant. 8.5: דישראל למילד ית בנהא. Zion als Mutter Israels auch syr. *Baruch* 3. 1. Ginzberg, *Legends of the Jews* VI, 385, Anm. 13, bemerkt: „Zion, the mother of Israel is a favorite metaphor with the pseudoepigraphic writers and the New Testament.“ Wir haben aber gesehen, dass diese Metapher auch der Agada geläufig ist. Es gibt also keinen Anhaltspunkt für die Abhängigkeit der Rabbathi von IV Esra. Auch Ginzberg, *Legends* VI, 403, Anm. 43, bemerkt, ohne aber auf eine Analyse der Texte einzugehen: „Yet it is inconceivable that there is direct dependence of the Midrash upon Ezra.“

IV Esra für sich hat noch andere Züge, die aus der Agada bekannt sind. Die Frau gibt als Grund ihrer Trauer und ihrer Klage an: nach langer Unfruchtbarkeit schenkt ihr Gott einen Sohn. „Dann zog ich ihn mit vieler Mühe auf. Als er nun herangewachsen, schickte ich mich an, ihm ein Weib zu nehmen und richtete ihm die Hochzeit aus. Als aber mein Sohn die Kammer betrat, fiel er nieder und war tot. Da stiessen wir alle die Lichter um.“ (9. 46–10. 2)

In der Literaturgeschichte<sup>95</sup> findet Zunz auch noch in anderen Dichtungen Kalirs eine Benützung der Pesikta r.: in der Tekiatha זכר ודעי ודעי ודעי und in der Elegie N. 55 (או בהלוך).<sup>96</sup> Und auch hier ist die Angabe Zunz' nicht zutreffend. Der Inhalt von זכר ודעי ודעי ist auch in der alten Pesikta enthalten,<sup>97</sup> und manche Wendungen bei Kalir kommen n u r in der alten Pesikta vor.<sup>98</sup> Was aber die Kina בלהוך ■■■ betrifft, so entspricht die Form der Darstellung viel mehr Echa r.,<sup>99</sup> als der Pesikta.<sup>100</sup>

Eine noch grössere Schwierigkeit als die bisher erörterten

Und in der Agada sagt Gott nach der Zerstörung Jerusalems: „Ich gleiche heute einem Menschen, der einen einzigen Sohn hatte, er machte für ihn ein Brautgemach, der Sohn starb aber im Brautgemach, אמר הקב"ה לירמיה אני דומה היום לאדם שהיה לו בן יחיד ועשה לו חופה ומת בחור חופתו Echa r. Proömium 24, ed. Buber 13a, Midrasch zutta ed. Buber S. 72. Das Motiv—Sterben des Bräutigams im Brautgemach—stammt aus Tobit, 3. 7f.; 6. 13f.; 8. 10f.

Ferner heisst es in der Agada: Nach der Zerstörung Jerusalems fragt Gott die Dienstengel: Auf welche Weise gibt ein sterblicher König seiner Trauer Ausdruck? Sie antworteten: Er löscht die Lampen aus. Echa r. zu 1.1, S. 44. Auch sonst enthält IV Esra viel Agadisches. Vgl. z. B. D. Simonsen, *Lewy-Festschrift*, S. 270ff. Vgl. auch Lévi, a. a. O., 283.

<sup>95</sup> S. 30: „Er holt sich den Stoff sowohl aus der eigentlichen Pesikta als aus der rabbathi, welche letztere namentlich in der Tekiata זכר ודעי ודעי der Keroba des Wochenfestes und den Elegien No. 54 und 55 benutzt ist.“—Zu der Keroba des Wochenfestes und der Elegie 54 במלאח או ist schon im Text das Nötige bemerkt worden. Zunz fährt fort (S. 31): „Sowohl das Alter dieser Quellen als der Bildungsgang der synagogalen Poesie und des Festritus nötigen uns, als Kalirs Zeitalter frühestens die erste Hälfte des neunten Jahrhunderts anzusetzen.“ Aber diese Zeitansetzung für Kalir verträgt sich schlecht mit dem Datum der Pesikta: 845.

<sup>96</sup> In den gangbaren Kinotausgaben steht או במלאח או vor בלהוך או, was ein Fehler ist. בלהוך או ist direkte Fortsetzung von במלאח או. Vgl. oben Anm. 88.

<sup>97</sup> זכר: das Gedenken Adams am Rosch ha-Schana. Pes. I, 150 = Pes. II, 67b. Die Erzväter Pes. I, 153b = Pes. II, 169a. ודעי ודעי: Posaunenschall und Busse. Pes. I, 157a = Pes. II, 169b. Die sühnende Bedeutung der Posaune—Pes. I und Pes. II passim.

<sup>98</sup> Die Jakobsleiter, die bei Kalir זכר vorkommt, findet sich nur Pes. I, 150b, in Pes. II fehlt dieses Motiv. Den Zusammenhang der Posaune mit Israel (ודעי ודעי) behandelt Pes. I, 152b, während in Pes. II sich nichts darüber findet.

<sup>99</sup> Proömium 24, ed. B. S. 26f.

<sup>100</sup> Ed. Friedmann 141a.



ergibt sich aus folgendem: In dem Piut פטרי רחמים<sup>100a</sup> kommt folgender Vers vor: כחוט השערה בעת לילה כחוט השערה בעת חציית הים. Als Quelle verweist Davidson<sup>101</sup> auf Pes. r. N. 17 S. 86b und Tan. ed. Buber בא §17. Nun gehört aber der Piut *Jannai*,<sup>102</sup> der spätestens um 700 geschrieben,<sup>103</sup> was fängt man dann mit dem Datum der Pesikta—845—an?

Die Lösung ergibt sich aus der Tatsache, dass Pes. II und Tan. auf eine ältere Quelle zurückgehen—Mechilta des R. Simon.<sup>104</sup>

Nun noch ein Wort über die *Heimat* der Rabbati.

Aus der von ihm vorausgesetzten Abhängigkeit der Erzählung in der Rabbati von IV. Ezra<sup>105</sup> schliesst Israel Lévi, dass die Pes. r. in einem christlichen Lande, u. z. in Süditalien verfasst wurde, wo der Verfasser oder Redaktor sowohl die in Frage stehende Erzählung wie auch die messianischen Theorien von christlicher Färbung aus seiner christlichen Umgebung entlehnt hat.<sup>106</sup>

Seine Argumente aber sind nicht stichhältig. Es ist für eine

<sup>100a</sup> Für שבת הגדול oder für den ersten Tag des Pessachfestes vgl. Davidson, *Machzor Jannai*, S. 32, Anm. 1.

<sup>101</sup> A. a. O., S. 33, Anm. 3.

<sup>102</sup> Vgl. Davidson, a. a. O., Einleitung, S. X, Anm. 9.

<sup>103</sup> A. a. O., S. XII und Anm. 20.

<sup>104</sup> Ed. Hoffmann S. 22: אבל הקב"ה אמר ויהי בחצי הלילה שהוא יושב על אבן שעות: ומכוון את השעה כחוט השערה.

<sup>105</sup> Vgl. oben Anm. 71.

<sup>106</sup> *REJ* XXIV 283–285: „Ici se pose donc un problème intéressant: La Pesikta a-t-elle conservé le débris d'une tradition juive qui serait entrée dans l'apocryphe, ou bien connaissait-elle encore un texte hébreu ou un souvenir gardé par les Juifs de cette oeuvre, ou, enfin, a-t-elle emprunté cette fable aux chrétiens, surtout aux sectes grecques, qui avaient admis cet écrit dans leurs livres sacrés? Chacune de ces hypothèses peut se soutenir avec quelque vraisemblance . . .". „Notre auteur n'a pas gardé par miracle le souvenir d'un trait agadique ou d'un écrit totalement perdu chez les Juifs; il a recueilli ce récit dont il pouvait tirer parti dans le milieu qui lui avait déjà fourni ses idées de couleur chrétienne. Telle est la conclusion qui nous paraît la moins hasardée". . . „Mais vivant dans un pays où Musulmans et Chrétiens se coudoyaient, dans son électisme il a pris son bien aux uns et aux autres. La Pesikta, elle, ne sait rien des traditions musulmanes: aussi faut-il admirer, une fois de plus, l'esprit de divination de Zunz, qui a assigné à ce livre la Grèce ou l'Italie méridionale pour patrie."

eingehende Erörterung derselben hier nicht der Ort. Sie ist auch für unsere Zwecke nicht notwendig, da, wie wir gesehen, keine Ursache vorhanden ist, einen Zusammenhang zwischen der Pesikta und IV. Esra vorauszusetzen.

Noch schwächer ist, was Zunz für *Griechenland* als Heimat der Rabbati geltend macht: „Wahrscheinlich ist die Pesikta rabbati ebenfalls in Europa verfasst, und zwar, wie ich glaube, in Griechenland. Dies würde nämlich die Benützung palästinischer Hagada's, des Jelandenu, den Ausdruck במקומות הרחוקים (f. 56a) und die Unbekanntschaft des R. Nathan mit diesem Werke erklären.“<sup>107</sup>

Ist die Benützung palästinischer Agadawerke seitens eines palästinischen Autors nicht möglich?!

In der zweiten Auflage ist aus Zunz' Handexemplar hinzugefügt: „[f. 45c ed. Breslau. (Chalifen) מלך ב"ו כשהו כילופים].“ Es ist nicht klar, was mit dieser Bemerkung gesagt sein will. Aber die Deutung כליפים Chalifen beruht auf einem Missverständnis. כליפים (N. 23, 116a) ist das griechische χαλεπός, heftig, streng.<sup>108</sup> Der Autor des Satzes<sup>109</sup> ist R. *Simon ben Lakisch* (im 3. Jahrhundert).

Lévi hat einige Jahre später<sup>110</sup> noch einen anderen Beweis für die süditalienische Heimat der Pesikta, die Erzählung von den בני בארי, N. 28, 135ab. Er zeigt, dass בארי das süditalienische Bari ist. Er bemerkt dann in bezug auf die Annahme Zunz': La mention de la ville de Bari vient confirmer cette hypothèse: elle prouve jusqu'à l'evidence que l'auteur a du vivre dans l'Italie méridionale, bien que Nathan de Rome, au XI<sup>e</sup> Siecle, non plus que Raschi, n'ait pas connu cet ouvrage.”

Auch auf das Problem Bari in der Pesikta kann hier nicht eingegangen werden. Es genügt bloss die Frage: Kann ein nicht-italienischer, sagen wir, palästinischer Schriftsteller, diese Erzählung nicht gekannt haben?

<sup>107</sup> *Vorträge*<sup>2</sup>, S. 256 und Anm. a.

<sup>108</sup> Vgl. Güdemann im Glossar ed. Friedmann 204a.

<sup>109</sup> מלך בשר ודם כשהוא כ"ל פ"ס אומר לעבדיו עשו עמכם יום אחד ועמי ששה ימים ein sterblicher König, wenn er hart ist, verlangt von seinen Dienern, sie sollen für sich einen Tag, für ihn aber sechs Tage arbeiten.

<sup>110</sup> *REJ*, XXXII, 281.

Lévi meint ferner: "Un autre indice corroborera notre conjecture. Ala p. 149b, est cité un auteur qui ne se rencontre jamais parmi les agadistes, c'est R. Sabbataï. Or, ce nom était porté spécialement par les Israélites italiens, c'était au commencement du X<sup>e</sup> siècle et également dans l'Italie méridionale celui de Donnolo, l'auteur du Tahkemoni, né à Oria."

Aber schon Bacher<sup>111</sup> hat gezeigt, dass R. Sabbatai ein Amoräer des 3. Jahrhunderts ist.

## B. TANCHUMA

### 1. Scheeltoth

Es ist bekannt, dass im Tanchuma Exzerpte aus den Scheeltoth des R. Acha enthalten sind.<sup>112</sup> Es besteht eine Meinungsverschiedenheit in bezug auf die Frage, wer die Exzerpte herübergenommen hat, der Redaktor selbst, oder ein späterer Kopist.<sup>113</sup> Für die erstere Ansicht sprechen folgende Tatsachen. 1. Die Scheeltothexzerpte sind in alten Handschriften und Ausgaben von Tan. I<sup>114</sup> enthalten und zum Teil auch im Tan. II.<sup>115</sup> 2. Der Scheeltothtext ist nicht einfach herübergenommen, sondern umgeordnet und theils gekürzt, theils mit Zusätzen versehen worden. Bei einem Kopisten wäre diese Arbeit nicht begreiflich.

<sup>111</sup> REJ, XXXIII, 43f.

<sup>112</sup> Tan. I בראשית §2 = Scheeltoth N. 1, ed. Wilna la-4a. נח §4 = Sche. N. 4, 6b-7a. משפטים §6 = Sche. N. 58, 95b-97a. חקק §6 = Sche. N. 137, 139b-142a. Gewöhnlich wird auch בראשית §3 unter den Scheeltothexzerpten geführt. In Wirklichkeit aber ist dieses Stück ein gaonäisches Responsum. Vgl. weiter unten.

<sup>113</sup> Redaktor: Reifmann, *Beth Talmud*, III, 183, N. 19. A. Epstein, *Beiträge zur jüdischen Altertumskunde* I, 64. Eppenstein, *Beiträge zur Geschichte und Literatur im gaonäischen Zeitalter*, S. 63. Zunz, *Vorträge* S. 242 zählt die Scheeltothexzerpte im Tan. unter den „fremden Bestandteilen.“ Daraus ist seine Ansicht in der Frage: Redaktor oder Kopist nicht zu erkennen. Weiss, *Zur Geschichte* III, 271, erwägt die Frage, ohne sie zu entscheiden. Kopist: Der Verfasser von *Oth Emeth* und R. Hirsch Chajes in *Iggereth Bikkoreth* 6a, angeführt bei Buber, Einleitung, S. 16. Buber daselbst: Alter Kopist, S. 86: Redaktor. Epstein meint, dass die Scheeltothexzerpte in Tan. I auf dessen babylonische Heimat hinweisen. Ist aber nicht notwendig. Vgl. weiter unten Anm. 124.

<sup>114</sup> Vgl. Buber, Einleitung, S. 16.

<sup>115</sup> חקק §2.

3. Es zeigt sich ein innerer Zusammenhang zwischen den Exzerpten und den übrigen Teilen des Tanchuma, wie wir gleich sehen werden.

Ausser diesen deutlich als Entlehnungen aus Scheeltoth gekennzeichneten Stücken gibt es noch andere Texte im Tanchuma, die sehr wahrscheinlich auf Scheeltoth zurückgehen.

Lerner bemerkt: „Ein klassischer Beleg für die Abhängigkeit Jelamdenus von Scheeltot ist in Jelamdenu בראשית N. 4, in welchem die Frage über die Benediktion erörtert wird, die man bei dem Bau eines neuen Hauses zu sprechen hat: *הבונה בית חדש וגו'*. Der Zusammenhang dieser Frage mit dem Text der Heiligen Schrift wird erst aus dem Scheeltot ersichtlich, in welchem die Schöpfung der Welt mit dem Bau eines Hauses und der Sabbath mit der Festfeier verglichen wird, welche sich an die Vollendung des Baues knüpft.“<sup>116</sup>

An sich ist dieses Argument nicht sehr stark. Den Vergleich der Wertschöpfung mit dem Bau eines Hauses kann jeder Schriftsteller aus Eigenem treffen. Aber die Annahme Lerner's gewinnt dadurch an Wahrscheinlichkeit, dass die betreffende Scheeltha im Tan. unmittelbar vorher zitiert wird.<sup>117</sup>

<sup>116</sup> *Jahrbuch der Jüdisch-Literarischen Gesellschaft zu Frankfurt a. M.*, I, 210. Gemeint ist Scheeltot I Anfang.

<sup>117</sup> In §2. Das folgende Stück §3 knüpft an den Schluss von §2 מחנה ומשלים an, ist also seine direkte Fortsetzung. Auch darin zeigt sich Absicht und Methode, was nicht für den Kopisten spricht, umsomehr, als §3 aus einem anderen Text stammt. Vgl. oben Anm. 112 Ende.—Eppenstein, *Beiträge*, S. 58, Anm. 2 wendet gegen Lerner folgendes ein: „Es ist aber zu bemerken, dass erstens Jel. dieses Thema bei den Betrachtungen über die Schöpfung bespricht und ausschliesslich von dieser handelt, Sch. hingegen den Sabbath zum Anlass nimmt und dass ferner inhaltlich in beiden Werken eine grosse Differenz hierüber sich kundgibt.“

Dieser Einwand wäre berechtigt gegen die Annahme einer Entlehnung, ist aber bedeutungslos in bezug auf eine Anregung, wie Lerner sie annimmt.

Eppenstein bemerkt fortsetzend: „Ausserdem aber ist im Tanchuma, das eine Bearbeitung des alten Jelamdenu ist, das von Scheeltot behandelte Thema in No. 2 teilweise direkt enthalten, so dass die recht lose Anlehnung an das dort erwähnte Beispiel nicht in Betracht kommen kann.“ Es ist aber viel logischer, dass der Redaktor des Tan., gerade weil er Scheelta 1 mit dem fraglichen Vergleich zitiert, von diesem zu seiner Jelamdenufolge angeregt wurde.

Eppenstein fährt fort: „Viel eher könnte man die betreffende Jelamdenu-

## 2. *Halachoth Gedoloth oder Responsen der Geonim*

a. Tanchuma I בראשית §3 ist nicht ein direktes Scheeltoth-zitat, sondern ein auf Scheeltoth zurückgehendes gaonäisches

stelle zurückführen auf den im Bereschith Rabba Kap. 3 Anfang, betreff Gen. 1. 3 sich findenden Vergleich vom Bauen des Palastes."

Dagegen genügt es bloss, den Text von Bereschith rabba 3. 1, ed. Theodor S. 18f., anzuführen: ר' יהודה אומר האור נברא חלה למלך שביקש לבנות פלמין והיה אותו המקום אפל מה עשה הדליק נרות ופנוס לידע היאך קובע הימילאום כך האור נברא חלה. Dagegen wird in den Scheeltoth (Tan. § 2) die Weltschöpfung mit dem Bau eines Hauses verglichen: כד ברייה הקב"ה לעלמיה ברייה בשימא יומין ונח ביומא ונח ביומא יומא טבא כד ברייה דשבתא בירכיה וקדשיה כמאן דבנא ביתא וגומר לעבדיה ועבד יומא טבא ילמדנו רבינו הבונה בית חדש כיצד צריך לברך כך שנו רבותינו: § 4: הבונה בית חדש מברך שהחיינו כדי שיעשה נחת רוח ליוצרו.

Darin aber hat Eppenstein gegen Lerner recht, dass Tan. I חיי שרה §5 = Tan. II מקץ §11 nicht auf Scheeltoth N. 8 ed. Wilna 11a f. zurückgehen müssen, da für beide Autoren der Talmud die Quelle ist.

Ist es nun sicher, dass Tanchuma die Scheeltoth benützt hat, so braucht es nicht mehr gesagt zu werden, dass die drei Stellen in den Scheeltoth, die mit Tanchuma übereinstimmen, nicht—wie manche Forscher annehmen—aus Tanchuma geschöpft sind.

Die Stellen sind: 1. Scheeltoth No. 1, ed. Wilna 3a: א"ר שמעון בן פוי א"ר = Tan. I כי חשא § 33. 2. Scheeltoth N. 1, 4a: 'יהושע בן לוי היו משמרין את השבת וכו' = Tan. I צו § 7 (Tan. II § 9). 3. Scheeltoth N. 80, 24b: רבי לוי זכריה בשם ר' ברכיה אמרו בשכסס של מלכים = Tan. I בא § 4 (Tan. II § 4).

In bezug auf 1. verweisen R. Jesaia Berlin am Rande der Scheeltoth und R. NZJB in העמק שאלה z. St. und R. E. Z. Margulies in *Responsen* אפרים, N. 27, angeführt bei Buber מבוא, S. 10, auf Tanchuma.—Für 2. verweisen die beiden erwähnten Kommentatoren und Buber a. a. O., S. 86 auf Tan.—Die dritte Stelle erklären ebenfalls die Kommentatoren, wie auch Buber, a. a. O., als Zitat aus Tanchuma.

In allen drei Fällen ist die Annahme unrichtig. Ad 1. (a) Der Gedanke wird in den Scheeltoth mit viel grösserer Ausführlichkeit behandelt, als im Tan. (b) Im Tan. ist der Autor R. Josua b. Nechemia, in den Scheeltoth R. Simon b. Pazzi im Namen von R. Josua b. Levi. Diese Traditionskette zeigt deutlich auf den *Babli* hin. In den palästinischen Midraschin wird Simon b. Pazzi nur mit seinem gräzisierten Namen סימון citiert. R. Acha hat also die fragliche Stelle im babylonischen Talmud gehabt. Ähnlich schon Bacher, *Ag. pal. Am.* III, 309, Anm. 1.—Ad 2. Auch hier weichen die Scheeltoth von Tan. im Namen des Autors ab. Scheeltoth: Chama b. Lakisch, Tan. I: Jehuda, Tan. II: Jehuda b. Gadja, Jal. ha-Machiri Ps. 50, N. 47: Jehoschua b. Gadja, das. 41, N. 19: ריביל, Deut. r. 7. 1: יירן.

Auch dieses Zitat in den Scheeltoth stammt sicherlich aus dem Babli



Responsum.<sup>118</sup> b. Tan. I בא §14 ist reine *Halacha*, Vorschriften über תפילין aus dem babylonischen Talmud. Folgender Text aber kommt im Talmud nicht vor:<sup>119</sup> ומצוה להניח תפלין של יד תחלה וכן קדשנו במצותיו וצונו להניח תפלין וחזור ונותן ש"ר ומברך בא"י אמ"ה אשר קדשנו במצותיו וצונו להניח תפלין וחזור ונותן ש"ר ומברך בא"י אמ"ה אקב"ו על מצות תפלין. ואם סח בין תפלה של יד לתפלה של ראש עבירה היא בידו וחזור עליה מעורכי המלחמה ואם ביהא שמה רבא מברך או בקדושה פסק בין תפלה של יד לשל ראש וענה קדושה או יהא שמה רבא מעורכי המלחמה אינו חוזר אלא חוזר ומברך על של ראש מפני שכל תפלה טעונה שתי ברכות אם ברכן כאחת עולות לזו ולזו הפסיקן ביהא שמה רבא או בקדושה בטלה ברכה ראשונה וחוזר ומברך שתיהן ואינו צ"ל בשיחת חולין שהיא עבירה גדולה.

Denselben Text zitiert ein mittelalterlicher Autor, der in bezug auf Quellenangabe besonders verlässlich ist, aus „Responsen der Geonim“:<sup>120</sup> וכן העיר מורי הרב רבינו שמחה שראה רבותיו נהגין דעל ש"י היו מברכין להניח ועל ש"ר במצות תפלין אפי' לא סח. ובתשובת הגאונים ראה סח בין תפלה לתפלה עבירה היא בידו וחוזר עליה מעורכי המלחמה. ואם ביהא שמו הגדול מבורך או בקדושה הפסיק אין חוזרין עליה מעורכי המלחמה אלא חייב לברך על של ראש שתיים. מפני שכל תפלה ותפלה צריכה שתי ברכות להניח תפלין ועל מצות תפלין. אם הניחן כאחת שלא דבר ביניהם עולות לזו ולזו אם הפסיק אפי' בקדושה או ביהא שמה רבא מברך בטלה עולות לזו ולברך לחזור ולברך שתיהן על ש"ר. Aber R. *Isak ben Abba Mari*, der

Sabbath 119b, woher der unmittelbar vorhergehende Ausspruch R. Chanina's zitiert wird.—Ad 3. Während die Stelle in Tan. *anonym* ist, hat Scheeltoth eine volle Traditionskette—genau so wie die alte Pesikta, ed. Buber 66b, wie Buber selbst—z. St. Anm. 84—betont. Dass er später im מביא zu Tan. dies nicht erwähnt und die Scheeltoth aus Tanchuma schöpfen lässt, ist auffallend.

<sup>118</sup> Vgl. oben I, N. 6, S. 379f.

<sup>119</sup> Der ganze Text in *We-Hishir* I, 7a f. Die *Halacha*, dass auch ohne Unterbrechung zwei Benediktionen zu sprechen sind, zitiert auch *SMG* Ende (ed. Ven. 105c) aus *Jelamdenu* = Tanchuma: וכן ראינו מפרש בילמדנו. Diese Stelle des *SMG* fehlt bei Buber, Einleitung zum Tanchuma 49a, N. 21.

<sup>120</sup> *Or Zarua* I, N. 582, 157ab. Aus *Schibbole ha-Leket* ergibt sich mit grosser Wahrscheinlichkeit, dass das Responsum R. *Sar Schalom* gehört. הלכות תפלין ed. Buber 192a wird ein Responsum R. *Sar Schalom*s betreffend Pergament und Riemen für die Tefillin zitiert und unmittelbar darauf folgt unser Text שח usw. Darum heisst es: *Ebenso* fand ich bei R. *Natronai* ebenfalls Vorschriften über Pergament und Riemen. Die Stellung des Textes betreffend die Unterbrechung zwischen diesen beiden Responsen kann nur so erklärt werden, dass die Ausführung über die Unterbrechung שח usw. zum Responsum R. *Sar Schalom*s gehört.

Verfasser des *Ittur*, hat denselben Text wie im Tan. und Or Zarua in einer *alten Version der Halachoth Gedoloth gelesen*.<sup>121</sup> Aus wel-

<sup>121</sup> *Ittur* ed. Lemberg II, 27a aus הלכות עתיקא = Hal. Ged. in alter Version. Diese Bedeutung von הלכות עתיקא ist von vielen verkannt worden: *Freimann*, in den Anmerkungen zu *We-Hishir*, 7b; der Kommentator des *Ittur* in ed. Wilna (1874) II, 62a. Aber schon R. Ascher b. Jeziel, der das Zitat aus *Ittur* herübergenommen, תפלין N. 15, hat הלכות עתיקא als selbständiges Werk über Tefillin verstanden: ובהל' תפלין עתיקא. Auf רא"ש verweisen Reifmann, *Beth Talmud* III, 183, und Buber, das. S. 371. Sie haben die Quelle des רא"ש nicht erkannt.

So entstand aus Missverständnis ein Werk, das nie existiert hat. Dass aber הלכות עתיקא des *Ittur* nichts anderes als die Hal. Ged. sind, folgt unzweideutig aus dem Zusammenhang. Der Verfasser zitiert aus Alfassi folgende Bemerkung: „Wir sehen in den Halachoth Gedoloth in dieser Sache einen schweren Irrtum. Die Halacha aber ist, wie wir geschrieben, dass man nur bei einer Unterbrechung zwei Benediktionen spricht, ohne Unterbrechung aber eine Beracha genügt usw. Alfassi, הלכות תפילין, N. 258, ed. Wilna 8a: וחזונו בהלכות גדולות בהא מילתא טעותא והלכתא כדכתבינן דלא מברך שתיים אלא היכא דשח אבל בטלה ראשונה וצריך לברך שתיים על ש"ר ודאי טעותא היא דאמר על כל תפלה טעונה ב' ברכות והיינו דקאמר רבי' הלכתא כאביי ורבא ולא שח מברך א' ושח מברך ב' אבל היכא דלא שח מודה דעל ש"י מברך להניח ועל ש"ר במצות תפילין.

Es ist also evident, dass der Verfasser des *Ittur* unter הלכות עתיקא eine alte Version der Hal. Ged. meint.

Ob nun der Autor des gaonäischen Responsums im *Or Zarua*—R. Sar Schalom, vgl. Anm. 120—den Text des Hal. Ged. herübergenommen oder die fragliche Stelle ein Zusatz in Hal. Ged. aus jenem Responsum ist, kann natürlich nicht entschieden werden. Jedenfalls aber gehört die fragliche Ausführung einem *suranischen* Gaon. Die Halacha, dass auch ohne Unterbrechung zwei Berachoth über die תפילין zu sprechen sind, findet sich, wie oben angegeben, auch in unseren Hal. Ged. Auch R. *Natronai* fordert zwei Benediktionen über die תפילין, *Geonica* II, 116. So auch R. *Amram*. Vgl. Seder R. Amram, ed. Warschau Ia, ed. Frumkin 43a. *Rabiah* N. 146, ed. Aptowitzer I, 141, Anm. 18. Dagegen R. *Acha* der Verfasser der *Scheeltoth*—N. 48, vgl. Alfasi *loc. cit.*, N. 258—und R. Hai fordern bloss *eine* Beracha, R. Hai bei Alfasi, a. a. O., vgl. das Responsum R. Hai's bei Alfasi R. ha-Schana IV, N. 588, Ibn Giat I,



Israel vergessen werde. Diese scharfe, in diesem Masse und mit dieser Emphase in der Agada sonst nicht vorkommende Betonung der überragenden Bedeutung der mündlichen Lehre, die an eine Zurücksetzung der Schrift grenzt, macht es zur Gewissheit, dass die Ausführung eine antikaräische Polemik ist. Dies zeigt nach Babylonien. Daher das grosse Lob der babylonischen Lehrhäuser.

Aber dies reicht nicht aus, die enge Verbindung, den *kausalen* Zusammenhang zwischen der Bedeutung der mündlichen Lehre und der Gründung der Adakemien in Babylonien, und nur in Babylonien, zu erklären. Diese einseitige Hervorhebung der babylonischen Akademien kann nur aus der Anschauung verstanden werden, dass Babylonien der einzige Ort der Thoragelehrsamkeit, die einzige Pflanzstätte der mündlichen Lehre, d.h. des Talmudstudiums ist. Es war dies die herrschende Überzeugung der babylonischen Gelehrten,<sup>123</sup> die mit besonderer Schärfe und in direkter, schonungsloser Herabsetzung Palästinas als Sitzes der Thoraunwissenheit in der Schrift Ben Babojs zum Ausdruck kommt.<sup>124</sup>

<sup>123</sup> Vgl. das Responsum R. Zemah's an die Kairuaner betreffend Eldad ha-Dani, bei A. Epstein, *Eldad ha-Dani* S. 8: ושאמר אלדר שהם מחפלים על חכמי בבל בראשונה ואחר על כל הגלות יפה הם עושים מפני שעיקר החכמים והנביאים לבבל גלו והם יסרו את התורה וקבעו ישיבה בנהר פרת מימי יהויכין מלך יהודה ועד היום הזה והם היו ששלח החכמה והנבואה ומהם תורה לכל העם יוצאת וכו'. Vgl. auch R. Nachschon in *Resp. d. Geonim* ed. Lyck N. 87 und Epstein a.a.O., S. 20, Anm. 22. Vgl. *Scherira*-Brief ed. Lewin S. 72 und das Responsum R. Hais in שער תשובה N. 71.

<sup>124</sup> *Ginze Schechter* ed. Ginzberg II, 559ff.—Dass die Schrift Ben Babojs eine antikaräische Polemik ist und den Zusammenhang zwischen dieser Polemik mit der Herabsetzung Palästinas und der Verherrlichung Babyloniens hat Dr. Lewin, חרביץ II, 4, S. 385–392, richtig erkannt und nachgewiesen. Umso auffallender ist es, dass er, a. a. O., S. 384, Tan. נח §3 als Quelle Ben Baboj's angibt! Den antikaräischen Charakter der Schrift Ben Babojs, namentlich des in *Ginze Schechter* I, 18ff. Abgedruckten Stückes, hat schon Mann, *The American Journal of Semitic Languages and Literatures*, 1930, S. 265f., bemerkt. Die Identität des Stückes in *Ginze Schechter* I, S. 18f. mit der Schrift Ben Baboj's, bei Ginzberg, *Ginze Schechter* II, S. 544 ff. hat ebenfalls Mann schon erkannt. Ginzberg, *Ginze Schechter* I, S. 18 meint, dass die eigentliche Derascha über die Bedeutung der Torah palästinischen Ursprunges, während das Lob der babylonischen Akademien vom letzten Redaktor des Tanchuma, einem Babylonier, hinzugefügt wurde. Die Ansicht, dass der Tanchuma in Babylonien redigiert wurde gehört A. Epstein, ist aber nicht richtig, vgl. oben Anm. 113,

Es ist also zweifellos, dass die Ausführung in Tan. I נח §3 aus babylonischen Gelehrtenweisen stammt. In der Tat finden wir sie wörtlich, mit unwesentlichen Varianten, in der Schrift *Ben Babojs*.<sup>125</sup>

#### 4. Ein gaonäischer Text

In beiden Versionen des Tanchuma ist folgender Text enthalten:<sup>126</sup> הוּוּ כִּי יוֹב דְּמָה יָמִים רַבִּים. שְׁלֹשָׁה יָמִים הֵם כִּיצַד הָאִשָּׁה הוּוּ נִטְמָא שְׁבַעַת יָמִים וְנִטְהַרָה בְּיוֹם הַשְּׁמִינִי אַם רָאִתָּה דָם בְּאוֹתוֹ יוֹם שׁוֹמֵרֶת יוֹם כְּנֹגֵד יוֹם וְנִטְהַרְתָּ חֹזֶרֶת וְרָאִתָּה בְּיוֹם הַתְּשִׁיעִי שׁוֹמֵרֶת אוֹתוֹ יוֹם וְנִטְהַרְתָּ חֹזֶרֶת וְרָאִתָּה בְּיוֹם הָעֶשְׂרִי שׁוֹמֵרֶת אוֹתוֹ וְנִטְהַרְתָּ הָרִי שְׁלֹשָׁה יָמִים שֶׁהֵן יָמִים רַבִּים אֲבָל אַם רָאִתָּה דָם בְּיוֹם אֶחָד עֶשֶׂר שֶׁהוּא יוֹם רְבִיעִי לְטַהֲרָתָהּ חֹזֶרֶת לְטוֹמְאָתָהּ וְשׁוֹמֵרֶת שְׁבַעַת יָמִים נִדְתָּה מִתְחִילָה שֶׁכֵּךְ שָׁנוּ חֲכָמִים אַחֵר עֶשֶׂר יוֹם שְׁבִין נִדָּה לְנִדָּה הַלֵּכָה לְמִשְׁהָ מַסִּינִי, לְפִיכֵךְ הָאִשָּׁה צְרִיכָה שְׁתֵּהָא שׁוֹמֵרֶת חֲמֵשֶׁה עֶשֶׂר יוֹם כִּיצַד הִיא עוֹשֶׂה שׁוֹמֵרֶת שְׁבַעַת יָמִים נִדְתָּה וְאַחֵר כֵּךְ סוֹפֵרֶת שְׁבַעַת יָמִים נִקִּיָּם וְנִטְהַרְתָּ בְּיוֹם הַשְּׁמִינִי וְטוֹבֵלֶת טְבִילָה חֲמוּרָה אַחֵר שְׁקִיעַת הַחֲמָה וְהִיא מוֹתֵרֶת לְבַעֲלָהּ, שְׁנֵאֵמֵר וְאֵם טַהֲרָה מְזוּבָה וְסִפְרָה לָהּ שְׁבַעַת יָמִים וְאַחֵר תִּטְהַר (וִיקְרָא ט"ו כ"ח).

Der rein halachische Inhalt dieser Ausführung, die in den talmudischen Quellen nicht vorkommt, sowie ihr sprachliches und stilistisches Gewand kennzeichnen sie als fremden Bestandteil, aus einem *gaonäischen* Kommentar oder Responsum herührend. Dies folgt zur Evidenz aus dem Satz וְטוֹבֵלֶת טְבִילָה חֲמוּרָה. Was bedeutet dieser im rabbinischen Schrifttum sonst nicht vorkommende Ausdruck „schweres Untertauchen“ oder „schweres Tauchbad“? טְבִילָה חֲמוּרָה kann keinen anderen Sinn haben als: Untertauchen in *quellendem* Wasser טְבִילָה בְּמַיִם חֲמוּמִים. Aber die Forderung בִּיאָה בְּמַיִם חֲמוּמִים für die *Nidda* widerspricht der talmudischen Halacha, wie sie indirekt aus der

<sup>125</sup> Die Einleitung in zwei Versionen bei Lewin, a. a. O., S. 394–405. Der Schluss der Ausführung im Tan. findet sich bei Ben Baboj in *Ginze Schechter* II, 563. Die Schrift Ben Babojs wird gewöhnlich als פרקי Kapitel des Ben Baboj angeführt. Aber J. N. Epstein hat gezeigt, חרביץ II, 4, S. 411–412, dass פרקי der Name des Verfassers ist.

<sup>126</sup> Tan. I מצורע §7. Tan. II §15. Ich teile hier bloss den Text mit, der in beiden Versionen vorkommt, ohne die aus Lev. r. 19, 5 herübergenommene Einleitung in Tan. I. Vgl. Buber Anm. 74.



*Mischna*<sup>127</sup> folgt und im *Sifra*<sup>128</sup> und in der *Tosefta*<sup>129</sup> ausdrücklich betont wird, dass מים חיים ausdrücklich für זב erforderlich sind. Nur die *suranischen* Geonim R. *Natronai*<sup>130</sup> und R. *Nachscho*<sup>131</sup> haben diese Erschwerung für die Nidda eingeführt, die vielleicht auch dem Standpunkt der Halachoth Gedoloth entspricht.<sup>132</sup> Jedenfalls aber stammt die Ausführung in Tan. aus *gaonäischer* Quelle. Da aber der Text in beiden Versionen und in allen Handschriften enthalten ist, so ist er vom Redaktor des Tan. selbst herübergenommen worden.

### C. SEFER JERUSCHALMI

Bekanntlich zitieren mittelalterliche Autoren, in erster Reihe deutsche Gelehrte, Aussprüche und Ausführungen aus dem *Jerusalemischen Talmud*, die in unseren Texten fehlen. Die geläufigen Erklärungen dieser Erscheinung erwiesen sich als unhaltbar und es führte mich eine eingehende Untersuchung

<sup>127</sup> *Mischna* Mikwaoth I, 8 als höchste Stufe מים חיים שבהן למעלה מהם מים חיים also bloss für זבים.

<sup>128</sup> *Sifra* מעורר Zabbim Parascha IV § 4: ומה אם זב שהוא טעון ביאת מים חיים אין מטמא בפנים כבחוץ נדה שאינה טעונה ביאת מים וכו'.

<sup>129</sup> *Tosefta* Meg. I, 13: אין בין זב לזבה אלא שהזב טעון ביאת מים חיים והזבה: *Tosefta* Zabim III, 1: חומר בזב מבזבה: אינה טעונה ביאת מים חיים. שהזב טעון ביאת מים חיים והזבה אינה טעונה ביאת מים חיים.

<sup>130</sup> *Responsen der Geonim* שיערי חשובה NN. 164, 168, 170, 175. הלכות פסוקות. N. 81, נמוס, N. 78, מעשה הנאותים, S. 76, N. 86, חש' II, 51, N. 3 im Responsum R. Hais ה'פ 81 und ש'ע' 168 sind R. Hai zugeschrieben, aber bloss irrtümlich, da R. Hai in חש' gegen die Ansicht R. Natronais polemisiert. Vgl. Aptowitzer, *Monatsschrift*, 1912, S. 753. Verwechslung der Responsen dieser beiden Geonim ist wegen des Gleichklanges der letzten Silbe—ai—nicht selten. Vgl. darüber Aptowitzer, *חריבץ* I, 4 S. 100, Anm. 21. Das Zeugnis R. Hais entscheidet auch gegen R. Jes. di Trani, חוספות רי'ד zu Meg. 8a, der das Responsum, gegen das R. Hai polemisiert, im Namen R. Paltojs anführt. Auch Natronai und Paltojs werden oft miteinander verwechselt. Vgl. Aptowitzer, *חריבץ*, a. a. O., S. 92 Anm. 14.

<sup>131</sup> *Resp. d. Geonim* ed. Assaf, II, S. 12, N. 35.

<sup>132</sup> Hal. Gedoloth ed. Warschau 169b oben, ed. Hildesheimer S. 627 oben. Vgl. auch Scheeloth אחרי N. 96 ed. Wilna 50a. Es ist aber nicht unwahrscheinlich, dass Scheeloth und Hal. Ged. מים חיים nur im Gegensatz zu מים מים gebrauchen. Vgl. העמק שאלה a. a. O., Anm. 12. Freimann zu II, 68b und Sch. Albeck zu RABn N. 25, Anm. 17. In bezug aber auf Hal. Ged. ist zu bemerken, dass im Hal. Ged. II die *Tosefta* nicht zitiert wird.

der fraglichen Zitate zu folgender These: „Die von den alten Autoren zitierten und in unseren Texten nicht vorhandenen Jeruschalmistellen haben, einige wenige Ausnahmen abgerechnet, auch nie dem Jeruschalmi angehört, sie sind nicht echt. Es hat ein Sammelwerk gegeben, dessen Grundstock ein Jeruschalmi-text bildete, der einerseits formell oft gekürzt und andererseits inhaltlich von zahlreichen Zusätzen aus dem Babli und anderen agadischen und halachischen Schriften, besonders der gaonäischen Literatur, durchsetzt war. Dieser Jeruschalmi-text, den ich zum Unterschiede vom eigentlichen Jeruschalmi קובץ ירושלמי oder ספר ירושלמי nenne, ist die Hauptquelle der unechten Jeruschalmizitate.“<sup>133</sup>

Für eine derartige Bearbeitung oder Paraphrasierung des jerusalemischen Talmuds konnte natürlich nur in einem Lande Interesse vorhanden gewesen sein, wo der Jeruschalmi, die alte autochthone halachische Quelle, dem Eroberer—der babylonischen, talmudisch-gaonäischen Halacha—angepasst werden soll. Dafür kommen nur zwei Länder in Betracht—Palästina und Italien, in erster Reihe aber Palästina, wo der palästinische Talmud immer mehr von dem Babli und der gaonäischen Literatur zurückgedrängt wurde. So suchte man die alte halachische Autorität mit den neuen Anforderungen in Einklang zu bringen. In Babylonien, wo der Jeruschalmi eine nur sehr untergeordnete Rolle spielte, konnte ein Interesse für „Modernisierung“ des Jeruschalmi nicht aufkommen.<sup>134</sup>

Nun meint J. N. Epstein,<sup>135</sup> dass die in unserem Jeruschalmi-

<sup>133</sup> Vgl. meinen Aufsatz „Unechte Jeruschalmizitate“ in *Monatsschrift* 1911, S. 419–425. Ferner meine Anmerkungen zu *Rabiah* I, 9, 77, 106, 109, 119–120, 130, 132, 142, 263, 360, 409, 412–413; II, 54, 113, 116, 130–131, 159, 215–217, 219, 228–229, 328–329, 331, 369–370, 372–373, 386, 388, 389–390, 398, 450.—J. N. Epstein חרביץ I, 2, S. 37 meint, dass es mehrere derartige Jeruschalmikompendien gegeben und verweist als Beispiel auf die Fragmente in Ginzbergs *Jeruschalmi Fragments* SS. 280, 307.

<sup>134</sup> Auch J. N. Epstein, a. a. O., S. 38 hält es für selbstverständlich, dass diese Kompendien in Palästina verfasst wurden. Er verweist richtig auf das „Jeruschalmi“-Zitat *Rabiah* II, 328–329, in dem der Satz vorkommt ובוולה קורין בחשעי וואו הברכה. Ich selbst habe eine ausführliche Behandlung des *Sepher Jeruschalmi* für die Einleitung zum *Rabiah* aufgehoben

<sup>135</sup> a. a. O., S. 38.

text fehlenden Zusätze in den Jeruschalmikompendien, besonders die „Jeruschalmi“-Zitate, die in der gaonäischen Literatur vorkommen, nicht aus dieser Literatur herübergenommen wurden, sondern aus dem ספר המעשים, aus dem die Geonim selbst (!) geschöpft haben.

Aber die Behauptung, dass die alten Geonim das ספר המעשים benützt haben,<sup>136</sup> ist entschieden unrichtig.<sup>137</sup> Ihre Hauptstütze ist die von Epstein und Mann angenommene Abfassungszeit des ספר המעשים, Mitte des 7. Jahrhunderts. Aber diese Theorie und ihre Folge—die Benützung des ספר המעשים seitens der Geonim—hat Epstein selbst später gründlich zerstört, indem er zeigte, dass in einem aus dem ספר המעשים stammenden Fragment ein grösseres Zitat aus einer gaonäischen Quelle enthalten ist.<sup>138</sup>

Ist es nun aber sicher, dass das ספר המעשים gaonäische Quellen benützt hat, so ergibt sich daraus, dass all die Stellen, die mit gaonäischen Quellen übereinstimmen, aus diesen Quellen in das ספר המעשים herübergenommen wurden. Aber darauf will ich hier nicht näher eingehen, weil ich der Ansicht bin, dass die von Lewin, Epstein und Mann veröffentlichten Fragmente nicht vom ספר המעשים herrühren, sondern von einer Kompilation, die auch das ספר המעשים benützt hat. Diese Kompilation ist wahrscheinlich in Italien verfasst worden. Dafür sprechen die griechischen und lateinischen Fremdwörter. Solange man annehmen konnte, dass die Fragmente aus einem Werke stammen, das im 7. Jahrhundert verfasst wurde, konnte als ihre Heimat Palästina gelten. Nachdem aber durch den Nachweis eines gaonäischen Zitates—und es gibt deren mehrere—in einem der Fragmente sie in eine viel spätere Zeit gerückt werden müssen, so konnte nur ein italienischer Autor griechische und lateinische Ausdrücke gebrauchen. Was

<sup>136</sup> Den Nachweis dafür habe ich in einem grossen für den חרביץ bestimmten Aufsatz geliefert. Aber wegen seines grossen Umfanges war es dem Herausgeber Prof. J. N. Epstein, nicht möglich den Aufsatz im חרביץ unterzubringen. Er hat mich dadurch entschädigt, dass er das Resultat meiner Ausführungen durch den Nachweis eines gaonäischen Zitates in einem Fragment des ספר המעשים glänzend bestätigt hat.

<sup>137</sup> Diese Theorie vertreten auch Lewin, חרביץ I, 1, S. 79–101. Vgl. auch חרביץ II, 4, S. 406. Mann חרביץ I, 3, S. 1–14. Das Verhältnis der Geonim zum ספר המעשים behandelt Epstein ausführlich noch I, 3, S. 146–153.

<sup>138</sup> חרביץ II, 4, S. 412–414.

aber das Sefer Jeruschalmi betrifft, so gibt auch Epstein zu, dass mehrere „Jeruschalmi“-Zitate direkt den gaonäischen Quellen entnommen sind.<sup>139</sup>

### III.

#### „TALMIDIM“ IN DER GAONÄISCHEN LITERATUR

In den gaonäischen Responsen werden nicht selten „Talmidim“ erwähnt, teils im geläufigen Sinne von Schülern, teils in der Bedeutung: Gelehrte—תלמידי חכמים.<sup>1</sup> Zuweilen wird auch der Ort genannt, woher die Talmidim stammen. So werden genannt „Talmidim“ aus Aegypten<sup>2</sup> und aus „Edom.“<sup>3</sup> Ich denke nicht an Talmidim der Akademien sondern an die Talmidim, die in den Anfragen erwähnt werden, oder im Grusse des Gaons an die Fragesteller.<sup>3</sup> In einem einzigen Falle, wo im Grusse des Gaons von den Talmidim, die die Fragen redigieren, die Rede ist, werden diese mit Namen genannt.<sup>4</sup> Ich glaube aber auch in manchen

<sup>139</sup> a. a. O., I, 2, S. 38, Anm. 5.

<sup>1</sup> Vgl. *Ginze Schechter*, ed. Ginzberg, II, S. 127: וזה ששאלתם במקום שאין דין קבוע ויש מישראל וכו' ותפשו לפני הוקנים ותלמידים z. St. In einem Responsum R. Saadiah Schaare Zedek 18b N. 12 (*Oeuvres completes* IX, S. 93 N. 10) ist in der Anfrage mehrmals von „Talmidim“ die Rede und die Antwort beginnt: לפנינו תמהנו מתלמידי וכו' וכאשר נקראה שאלה זו לפנינו תמהנו מתלמידי וכו' וקבוצת חכמים *Responsensammlung*, S. 109f.—*Ozar ha-Geonim*, S. 120 N. 320, *Ginze Kedem*, ed. Lewin, IV, S. 103.

<sup>2</sup> *Responsensammlung*, קבוצת חכמים a. a. O.

<sup>3</sup> נמו"ס N. 34, bei uns weiter unten N. 3.

<sup>4</sup> Vgl., z. B., *Responsen der Geonim*, ed. Harkavy, N. N. 59, 63, 67, 369. In letzterer Stelle gilt der Gruss Schülern, die die Fragen ordneten התלמידים השאלות. Dies hat Eppenstein, *Beiträge zur Geschichte und Literatur im gaonäischen Zeitalter*, S. 21, Anm. 4, missverstanden, indem er meinte, dass es sich um Schüler der gaonäischen Hochschule handelte, die an der Redaktion der Responsen teilgenommen haben. Ein ähnlicher Gruss *Responsensammlung*, ed. Assaf (in *היהדות*, Bd. 2), S. 33. N. 9.

<sup>4</sup> Harkavy, N. 369. Einen dieser Schüler kennen wir auch aus den anderen Responsen, nämlich Mose b. Samuel ibn Ġama. Vgl. Harkavy, N. 59: שאיל' אילין דשאלו מן קדמנא מחמדי עיננא מ'ר נחמיה בר מ'ר עובדיה ומ'ר משה בר מ'ר שמואל ואהם מ'ר נחמיה בן מ'ר עובדיה ומ'ר משה: *Ginze Kedem*, I, S. 1. Harkavy, N. 67: In einem Genizafragment veröffentlicht von Mann. *JQR NS*, VIII, S. 357. משה בר שמואל הנודע בן נמץ.

anderen Fällen in den „Talmidim“ bestimmte Personen erkennen zu können. Und zwar in folgenden Stellen.

1. „Ruben schwor, seine Frau soll nicht mehr seine Frau sein, ist aber nicht in der Lage, ihre Kethuba zu bezahlen, um sich von ihr scheiden zu lassen. Wie lautet die Entscheidung? Ein Teil der Talmidim entschied, dass Ruben die Prügelstrafe erhalten und zu seiner Frau zurückkehren soll<sup>5</sup> und führten als Begründung an: dieser Ruben schwor in bezug auf etwas, dessen Ausführung ihm unmöglich ist, sie verwiesen dabei für ihre Behauptung auf die Halacha.<sup>6</sup> Wer schwört, drei Tage nicht zu schlafen, bekommt die Prügelstrafe und darf sofort schlafen. Ein anderer Teil der Talmidim hingegen findet diese Begründung als nicht einleuchtend, indem sie meinten: die Fälle sind nicht zu vergleichen: wer schwört, drei Nächte nicht zu schlafen, schwört etwas zu tun, was absolut unmöglich ist, derjenige aber, der geschworen hat, dass seine Frau nicht mehr seine Frau sein soll und nicht imstande ist, die Kethuba zu bezahlen, kann es auf verschiedene Weise ausführen. Möge uns unser Herr belehren.“<sup>7</sup>

<sup>5</sup> Vgl. weiter unten Anm. 7.

<sup>6</sup> b. Nedarim 15a, Sukka 53a, Jebamoth 121b, Scheb 25a.

<sup>7</sup> *Responsen der Geonim*, ed Harkavy, N. 345. Fragesteller: R. Jakob b. Nissim aus Kairuan. Der Gaon, an den die Frage gerichtet wurde, ist also Scherira oder Hai. Er gibt der ersten Gruppe der „Talmidim“ Recht, nicht aber aus dem von ihnen geltend gemachten Grunde.

Dieselbe Anfrage wie die des R. Jakob b. Nissim und mit derselben Entscheidung in Namen der „Talmidim“ finden wir in einer Anfrage aus Cables: (*Resp. d. Geonim*, ed Harkavy, N. 319):

„Ruben schwor vor Zeugen, seine Frau soll nicht mehr seine Frau bleiben. Nach einiger Zeit reute es ihn und er will wieder zur ihr zurückkehren. Er gibt als Grund seiner Gesinnungsänderung an, dass er nicht imstande sei, ihr ihre Ketuba zu bezahlen. Da entschied ein Teil der תלמידים er soll die Prügelstrafe erhalten und zu seiner Frau zurückkehren. Dagegen meinte ein anderer Teil der תלמידים wir können nicht ohne weiteres ihm aufs Wort glauben, sondern er muss ausser dem, dass er die Prügelstrafe erhält, unter Bann schwören, dass er nichts hat, wie jeder andere Schuldner, der angibt, nichts zu besitzen. Beide Parteien bestehen auf ihrer Ansicht und so diskutierten sie miteinander. Möge uns unser Herr, der Gaon, über die Entscheidung belehren.“

Ist es nicht auffallend, dass sich dieselbe Frage mit derselben Entscheidung und mit denselben Vertretern dieser Ansicht in Cables wiederholte? Dies ist nur so zu erklären, dass es sich in der Anfrage nicht um einen Fall aus dem



Wir sehen also, dass die „Talmidim“ Ansichten vertreten, die dem gelehrten Fragesteller nicht bekannt oder von ihm nicht anerkannt waren.

2. „Betreffend eure Frage: Bezüglich des Ausspruches der Gelehrten,<sup>8</sup> sämtliche Dienste, die die Frau für ihren Mann verrichtet, darf auch die Menstruierende verrichten mit Ausnahme des Einschenkens des Bechers, des Bettmachens und des Waschens des Gesichtes, der Hände und der Füße, pflegten wir hier, in unserem Wohnort, uns Erschwerung aufzuerlegen, indem wir es verboten haben, das Lager und Sitzstätte einer Menstruierenden zu berühren und bestimmten, dass, wenn es jemand gemacht hat, er seine Kleider waschen und sich reinigen muss; auch durfte die Menstruierende während der ganzen Zeit der Menstruation nicht backen und kochen. *Nun aber erhoben sich in unserer Zeit die Talmidim und ersuchten, unseren Brauch abzuändern*, indem sie meinten: Es ist nicht nötig, sich fernzuhalten vom Lager und der Sitzstätte einer Menstruierenden, da wir auch bei anderen Verunreinigungen, wie z. B. Verunreinigungen an einem Leichnam, keine Reinigung haben. Sie meinten ferner: gibt es denn eine Reinheit zur Hälfte? Da wir nun bei anderen Verunreinigungen keine Reinigung haben, ist es nicht nötig, sich vom Lager und der Sitzstätte einer Menstruierenden fernzuhalten.“<sup>9</sup>

3. „Betreffend eure Frage über ein Haus, wo alle Einwohner Juden sind und gemeinsam einen Erub machen wollen, ob es notwendig ist, dass jede Wohnung einen ganzen Laib beisteuert. Und ihr habt angeführt: Zu uns sind Talmidim aus Edom gekommen und haben in einer Herberge gewohnt, in der lauter

Leben handelte, sondern um eine akademische Frage, die in einer der beiden Städte die Gelehrten beschäftigte, wie wir sehen werden, zuerst in Kairuan.

<sup>8</sup> Ketuboth 61a.

<sup>9</sup> נמ"ס N. 44, *Eschkol*, ed. Albeck, S. 4. Der Schluss dieses Responsums, *Geonica*, S. 206f. Der Gaon, an den die Frage gerichtet ist, ist nach der Angabe in נמ"ס Scherira. Die Anfrage kam zweifellos aus Kairuan. Vgl. Büchler, *REJ* L, S. 168f. Poznanski אנשי קירואן SS. 5, 7. Lewin, *R. Scherira Gaon*, S. 18. Büchler meint, der Brauch zu Kairuan stammt aus Palästina. Vielleicht aber war auch für die Erschwerung in bezug auf die Menstruierende der Einfluss der Karäer massgebend, die in Kairuan eine ganz bedeutende Rolle gespielt haben, vgl. Lewin, *Scherirabrief*, Einl. S. VII f.

Juden waren, und sie haben zusammengetragen etwas Mehl aus jeder Wohnung, draus zwei drei Brotlaibe gebacken und so einen Erub für alle gemacht. Genügt dies oder nicht? Möge uns unser Herr, der Gaon, belehren und veranlassen, dass uns diese Norm erklärt werde."<sup>10</sup>

4. „Wir finden folgende Entscheidung des R. Saadia:<sup>11</sup> Wer am Pessachabend einen fünften Becher trinken will, lässt יהללך weg und spricht es nachher, darf aber nach dem fünften Becher nicht mehr essen und nicht mehr trinken als Wasser. So war unser Brauch von unseren Vorfahren her. Ebenso finden wir es auch in den Halachoth Gedoloth.<sup>12</sup> Nun sind zu uns Talmidim gekommen und haben gelehrt, dass nach jedem Becher der Segenspruch nachher ebenso wie vorher kommt, יהללך wird nach הלל gesagt, nachher wird der fünfte Becher eingeschenkt und dann das grosse הלל gesagt. Dann erlauben sie, nach dem fünften Becher Wein zu trinken und behaupten: Zwar haben R. Saadia und der Verfasser der Halachoth verboten, nach dem fünften Becher etwas zu trinken, wir aber nahmen es nicht an."<sup>13</sup>

5. „Betreffend deine Frage bezüglich der Aussprüche Rabbis, dass einem Am ha-areş das Essen von Fleisch verboten ist, und der folgenden Aussprüche in jener Baraitha,<sup>14</sup> dir den Grund zu erklären und mitzuteilen, ob die Halacha wirklich so ist oder nicht. Du hast mitgeteilt, dass ein Teil der Talmidim dort, in

<sup>10</sup> גמ' N. 34. Vollständig, mit der Frage, in *Ha'itim*, S. 110, woraus die Ergänzung hier. Zu Talmidim aus Edom bemerkt Müller in גמ' N. 1: „Daraus ersieht man, dass Schüler aus Europa nach Babylon kamen, um zu studieren.“ Er hat aber übersehen, dass die Talmidim aus Edom in der Frage erwähnt werden, was schon Mann, *JQR*, NS, VII S. 488, Anm. 37 bemerkt hat. Auch Weiss, *Zur Geschichte der jüdischen Tradition*, IV, S. 177 verfiel in denselben Fehler wie Müller, hat aber noch rechtzeitig seinen Irrtum erkannt. Mann meint, dass der Ort, wohin die Talmidim gekommen sind, nicht bekannt ist, nach unseren Ausführungen aber kam die Anfrage aus Kairuan.

<sup>11</sup> Vgl. *Siddur des R. Amram*, ed. Frumkin, II, 225, *Ittur*, ed. Lemberg, II, 51b, Müller, *Oeuvres complètes de R. Saadia*, IX, S. 155. Die von den Fragestellern zitierte Ansicht Saadias stammt aus seinem Siddur, mitgeteilt bei Bondi, *Der Siddur des R. Saadia Gaon*, S. 33.

<sup>12</sup> Ed. Hildesheimer, S. 144.

<sup>13</sup> Ibn Giath, II, S. 100 unten. Die Anfrage ist an R. Hai gerichtet.

<sup>14</sup> Pesachim 49b.



kommen. Nun heisst es sowohl in einer Anfrage an Scherira, wie auch in einer solchen an Hai, dass die „Talmidim“ „in dieser Zeit“ „jetzt“ gekommen sind. Die „Talmidim“ sind also in den späteren Jahren Scheriras in Kairuan eingewandert.

Es ergibt sich also aus den hier mitgeteilten gaonäischen Responsen, dass in den letzten Jahren Scheriras europäische Gelehrte nach Kairuan eingewandert sind, die in ihrer alten Heimat andere Bräuche hatten als die in Kairuan herrschenden und sie in ihre neue Heimat verpflanzen oder wenigstens für sich beibehalten wollten. Dies störte die Gelehrten Kairuans und sie wandten sich mit Anfragen an den Gaon.

Nun heisst es in einer Anfrage an R. Hai: „Unser Lehrer, der Gerechte,<sup>16</sup> hat an Euch, unseren Herrn, eine Frage bezüglich des Schofarblasens gerichtet und ihm mitgeteilt, dass er darüber eine Meinungsverschiedenheit hatte mit den *Gelehrten aus Edom*.“<sup>17</sup>

<sup>16</sup> D. i. R. Jakob b. R. Nissim. Vgl. Rapoport, *Biographie des R. Nissim*, Anm. 32, Halberstam in *Jeschurun*, VIII, S. 58, Poznanski, *אנשי קירואן*, SS. 15, 31f.

<sup>17</sup> *Temim Deim* N. 119. Das Responsum, welches in der Anfrage des Responsum N. 1 in *Resp. d. Geonim*, ed. Lyck, erwähnt wird, ist nach Kairuan gerichtet. Dies ergibt sich aus der Bemerkung des Gaons: *ושמא לא עמדום על שאלתו של אלוף נ"ע ועל תשובותיו בדבר זה*. Das Responsum ist also an den Wohnort des R. Jakob b. R. Nissim gerichtet. Als Fragesteller wird in den von Berliner in *הלבנון*, V, 565, veröffentlichten Stücken aus der Derascha des Nachmanides zu Neujahr, R. Hillel angegeben, aber schon Halberstam, a. a. O., hat erkannt, dass *הלל* Verschreibung ist aus *בהלול*: vgl. Poznanski *JQR*, NS, III, S. 412, *אנשי קירואן*, S. 15. Diese Korrektur wird bestätigt durch den Text der Derascha ed. A. Z. Schwarz, S. 23.

An diesen R. Bahlul ist wahrscheinlich auch das Responsum in ed. Lyck N. 1 gerichtet, da er von dem Gaon eine ausführliche Antwort verlangt, wie er sie in bezug auf die *קיעות* gegeben hat. Da er keinen anderen Empfänger jenes Responsums erwähnt, so muss er selbst es gewesen sein. Dieses Moment halte ich für so wichtig, dass ich es sogar gegen die Autorität des R. Zerachjah Halevi geltend mache, der im Maor zu Beza I wahrscheinlich unser Responsum an R. Nissim gerichtet sein lässt. Möglich ist es auch, dass R. Nissim sich in derselben Frage an R. Hai gewendet hat. Poznanski, *אנשי קירואן*, S. 43, folgt der Angabe des Maor. Lewin, *Scherirabrief*, Einl., S. VII, sagt ohne Quellenangabe, dass Lyck N. 1 an R. Nissim gerichtet wurde, wahrscheinlich geht er auf Poznanski zurück.—Am Schlusse seiner Ausführungen über Bahlul bemerkt Poznanski (S. 15): Es hat im Westen noch einen Bahlul gegeben,

In der Antwort des Gaons heisst es dann unter anderem: „Dies ist absolut richtig, aber die Irrtümer, die durch die Gelehrten aus Rom eingeführt werden, bringen Euch in Verwirrung.“<sup>18</sup>

Die „Talmidim,“ die aus Edom kamen, wollen also die alten Bräuche Kairuans zugunsten ihrer von der Heimat mitgebrachten Gepflogenheiten abändern. Die Gelehrten, die aus Edom kommen, befinden sich in Meinungsverschiedenheit mit den Gelehrten Kairuans über einen religiösen Brauch. Es ist daher kein Zweifel, dass die „Talmidim“ aus Edom mit den Gelehrten aus Edom identisch sind, oder wenigstens mit ihnen eng zusammenhängen.

Wir erfahren aus diesem Responsum aber auch, dass die „Gelehrten aus Edom“ aus *Rom* stammen.<sup>19</sup>

Bahlul b. Josef, in *Reponsen der Geonim*, ed. Harkavy, S. 7. Nun gehört aber diese Responsengruppe N. N. 16–36 Scherira oder Hai oder beiden zugleich an. Auf einige Responsen, die anderen Quellen teils im Namen Scheriras teils im Namen Hais gebracht werden, verweist schon Harkavy, S. 345f. Ebenso Poznanski selbst, *Studien zur Gaonäischen Epoche*, S. 27f. mit besonderen Hinweis auf N. 36, das er Scherira zuschreibt, das aber in Wirklichkeit Hai gehört, vgl. Ch. Kis, *Gaoni Responsumok* (Diss. Budapest, 1912) SS. 24, 27. Vgl. Lewin in *Ozar ha-Geonim*, II, 1, S. 130 N. 398, Anm. 1. Ein weiterer Hinweis darauf, dass diese Responsengruppe Scherira oder Hai, oder beiden zugleich gehört, ist der Gruss am Schlusse von N. 36 ישע רב welcher Gruss eine stehende Schlussformel der Responsen dieser Geonim bildet. Vgl. *Die Responsen R. Hais*, Harkavy N. 67 und *Ozar ha-Geonim*, ed. Lewin, I, S. 43 und die Responsen bei Harkavy N. N. 198, 219, 264, 369, und 418. N. 208 lautet der Gruss: וסע רב ברוך העור וסע und N. N. 200, 206; ברוך העור (Vgl. auch Ginzberg, *Geonica*, S. 54). Vgl. Aptowitzer, *Tarbiz* 1, 4, S. 83, Anm. 8) Bahlul b. Josef ist also ein Zeitgenosse Hais. Vgl. auch den Brief R. Hais, in den Zusätzen zum *Scherirabrief* ed. Lewin, S. XXXII. Was hindert uns anzunehmen, dass er mit Bahlul von *Temim Deim* N. 119 und Lyck 1 identisch ist?—Die Identität Bahluls mit Bahlul b. Josef jetzt auch bei Mann, *Texts and Studies*, I, 110, Anm. 3.

<sup>18</sup> *Temim Deim*, a. a. O., 53b. Weiss, *Zur Geschichte der jüd. Tradition* IV, S. 305, führt diese Gelehrten aus Rom in den Worten R. Hais an, als Beweis für den Verkehr zwischen den letzten Geonim und Italien!

<sup>19</sup> Die Fragesteller sprechen von den „Gelehrten Edoms,“ während der Gaon von den „Gelehrten Roms“ spricht. Den Gelehrten Edoms begegnen wir auch in der Frage des R. Josef b. Berechja aus *Kairuan* an R. Hai, *Taam Zekenim* S. 54, und auch hier nennt sie der Gaon in seiner Antwort: „Männer aus Rom.“—Das Responsum Hais an Josef b. Berechja auch im Jezirahkommentar des R. Jehuda ben Barzilai, S. 103–105.



Nun ist uns anderswoher *ein Gelehrter bekannt, der in den späteren Jahren Scheriras aus Rom nach Kairuan eingewandert ist und dort ein Lehrhaus errichtet hat*—R. Ḥuṣiel der Vater des R. Ḥananel.<sup>20</sup>

Es ist daher fast zweifellos, dass die „Gelehrten Edoms“ in den Responsen R. Hais R. Ḥuṣiel und seine Begleiter, die „Talmidim“ aber entweder diese Personen selbst oder ihre Schüler sind.

In der Tat finden wir in den Kommentaren R. Ḥananel, die im ganzen unter dem Einflusse der gaonäischen Literatur stehen, viele Halachoth und Traditionen, die von Lehre und Brauch der Geonim abweichen,<sup>20a</sup> die also nur daraus erklärt werden können, dass sie von R. Ḥuṣiel stammen, der sie aus seiner Heimat, Rom, mitgebracht hatte.<sup>21</sup> Und auch nur daraus ist es zu erklären, dass R. Ḥananel nicht bloss sehr häufig den palästinischen Talmud zitiert, sondern zuweilen auch nach dem Jeruschalmi gegen den Babli entscheidet,<sup>22</sup> was nach gaonäischer

<sup>20</sup> Vgl. Poznanski אנשי קירואן S. 18; R. Ḥuṣiel wird איש רומי genannt, *M. V.* SS. 244, 416, 424.

<sup>20a</sup> Ueber eine von den Geonim abweichende Entscheidung des R. Ḥananel vgl. das Responsum Alfasis bei Harkavy N. 520.

<sup>21</sup> Vgl. Weiss, *Zur Gesch. d. jüd. Tradition*, IV, 269f. Halevy דורות הראשונים III, S. 147f, Poznanski, a. a. O., S. 19.

<sup>22</sup> Vgl. Weiss, a. a. O., IV, S. 270.—*M. V.*, S. 244 (aus *M. V.* ohne Quellenangabe im חשב"ץ ed. Lemberg, N. 437) wird aus dem Kommentar des R. Ḥananel der Satz zitiert: סתם רחיצה שאסרו באבל לא אסרו אלא בחמין אבל בצונן מותר רחיצה צונן מותר וראייה מירושלמי. אבל שבא מן הדרך ורגליו קרות מותר לרחוץ בצונן שאין רחיצה צונן מותר. Gemeint ist Jerusch. Moed Katon III, 5, 82d, Z. 33 (=Jer. Berachoth II, 75b, Joma VIII, 144d, Taanith I, 6, 64b). Das steht aber in Gegensatz zu Babli Taanith 13b: בצונן בין בחמין בין בצונן כל נופו בין בחמין בין בצונן. R. Ḥananel geht also hier mit dem Jeruschalmi gegen den Babli und dies bei so deutlicher Gegensätzlichkeit. Zwar lässt sich das Zitat im *M. V.* beanstanden, indem nämlich im Kommentar des R. Ḥananel zu Moed Katon 24a blos die Stelle aus dem Jeruschalmi ohne die vorhergehende allgemeine Regel angeführt wird, was nicht mit Sicherheit für einen Anschluss an den Jeruschalmi spricht. Ich habe aber an einer anderen Stelle gezeigt, dass den alten Autoren die Kommentare des R. Ḥananel in verschiedenen Rezensionen vorgelegen sind. [Vgl. *Ha-sofeh*, VII, 82–85.]

Wichtig ist es aber, dass der erste Teil des Zitates aus R. Ḥananel im *M. V.* wörtlich in einem Responsum Natronais vorkommt, so, dass R. Ḥananel möglicherweise hier dem Gaon folgt, für dessen Entscheidung er einen Beweis

Auffassung, die Hai besonders scharf zum Ausdruck bringt, ganz unzulässig ist.<sup>23</sup>

Sind nun R. Ḥuṣiel und seine Genossen mit den Gelehrten aus Edom identisch, die in Kairuan neue, von den Gepflogenheiten der babylonischen Akademien abweichende Bräuche einführen wollten, so ist dadurch das Rätsel gelöst, dass wir in der gesamten gaonäischen Literatur keine Spur von irgendwelcher Beziehung von R. Ḥuṣiel zu R. Scherira und R. Hai finden, während sonst die Gelehrten Kairuans mit den babylonischen Akademien, besonders aber mit diesen beiden Geonim in so lebhaftem Verkehr standen:<sup>24</sup> Scherira und Hai waren auf die Einwanderer, die durch ihre Neueinführungen den Einfluss der Akademie zurückdrängen wollten, nicht gut zu sprechen.

In der Tat finden wir bei diesen Geonim, dass sie darauf bedacht waren, den Bräuchen ihrer Akademie im Auslande Geltung zu verschaffen, und gegen jede Abweichung von diesen Stellung genommen haben.

So heisst es in einem Responsum, das von einem dieser beiden Geonim oder von beiden zugleich herrührt, wie folgt:

aus dem Jeruschalmi anführt. Auch das wäre für unsere Ausführungen sehr wichtig.

Das Responsum R. Natronais lautet: והלכתא כל רחיצה שאסרו חכמים באבל כן של חמין הן (Schaare Zedek 20a, N. 3, Schaare Teschubah N. 301, Halachoth pesukoth N. 174, Temim Deim N. 176 in einem Zitat aus Ittim, Schibbole ha-leget. Semachoth § 29 S. 354 aus Responsum der Geonim. Auf den Widerspruch dieser Entscheidung zum Talmud verweist schon R. Jehuda b. Barzilai: וכתב נמי האי גאון הכי והלכתא כל רחיצה שאסרו חכמים באבל כן של חמין הן והא מלתא לא חזין לן הכי לעניות דעתין דאנן כבר כתבינן לעיל לא שנא רחיצה בחמין לא שנא בצונן אסור וכמפורש בתעניות בפ"ק ופניו ידיו ורגליו אבל בצונן מותר. אבל מאי דכתב האי גאון תמיהא הו' לן היכי טעי בכי האי מלתא אבל אפשר דהוי טעות סופר דהא רחיצה מרחיצת פניו ידיו ורגליו קאמר דאינו אסור אלא בחמין אבל בצונן מותר. Nun aber ist der Text bei einer solchen Uebereinstimmung aller Quellen absolut unantastbar und die Entscheidung des Gaons geht, wie wir gesehen, auf den Jeruschalmi zurück.

<sup>23</sup> Vgl. die Responsen R. Hais in ed. Lyck N. 46: Schaare Teschubha N. 39 und Eschkol II, S. 53; Eschkol II, S. 47ff., Responsen der Geonim ed. Harkavy, N. 434; Responsen der Geonim aus der Genizah, ed. Assaf, S. 125, vgl. Poznanski, Studien zur gaon. Epoche, SS. 11, 29, Assaf, a. a. O. Auf das Responsum R. Hais Eschkol II, 47ff., geht Alfasi Erubin Ende zurück. Merkwürdigerweise hat Poznanski, der S. 1 auf Alfasi verweist, dies nicht erkannt. Zu der Ausführung Alfasis vgl. Frankel Introductio 47a.

<sup>24</sup> Vgl. Poznanski קירואן אנשי und bes. S. 7f.

„... eure Vorfahren haben diesen Brauch von den Palästinen-  
sersn übernommen; ihr aber, die ihr euch nach unseren  
Bräuchen und unserem Talmud richtet, müsset es so machen  
...“<sup>25</sup>

Es ist daher nur natürlich, dass die Tätigkeit der „Gelehrten  
aus Edom“ den Unmut der Geonim hervorrufen musste. Und  
so konnte zwischen R. Ḥuṣiel und seiner Familie einer- und den

<sup>25</sup> *Ha-Machria* N. 42, 32a. Das Responsum gehört Scherira oder Hai.  
Vgl. Büchler *REJ* L, S. 148. An einer anderen Stelle schliesst der Gaon sein  
Responsum mit der Bemerkung: „Es ziemt sich für euch zu unserem Brauche  
zurückzukehren.“ Novellen des R. Salomo b. Adreth zu Ketuboth 7b. Ebenso  
in einem Responsum, das R. Scherira und R. Hai angehört: „So ist unser  
Brauch gemäss einer Weisung des Himmels . . . auch ihr sollet so  
handeln in Zeiten der Not . . . Wir vertrauen auf Gott, dass ihr nicht leer  
ausgehen werdet und euch ein Wunder geschehen wird.“ והכין אנהינו יתנא מן  
שמיא וכו' אף אתון עבדין הכין לעתות בצרה וכו' דסמיכנא ברחמנא דלא הדריחון ריקס ומתרחיש  
לכון ניסא *Chemda Genuza*, N. 161, קבוצת חכמים, S. 108 (Harkavy N. 259 fehlt  
der Schluss). An einer anderen Stelle schreibt Hai: Und Ihr, wenn Ihr euren  
Brauch leicht abschaffen könnt, wie schön und wie gut wäre es, wenn es aber  
schwierig wäre, da der alte Brauch im Volke eingewurzelt ist, dann behaltet  
ihn gestützt darauf, was ich oben angeführt habe, wenn auch unserer der  
vorzüglichere ist. ואתון אי ניתא מילתא לכון למידחא מנהאניכון וכו' כמה שפיר וכמה יאי.  
ואי קשיא מלחא משאר עמא דנקיטי מנהאנא וקשי למיעקר אנון מנייה איה לכון למיסמך אהא  
*Resp. d. Geonim* ed. Harkavy, N. 65. Ähnlich schreibt R. Hai in einem anderen Responsum: „Der Gaon, mein  
Vater, und der Gaon, mein Grossvater haben es so gemacht wie wir und auch  
ihr haltet euch daran.“ ואבא מרי נאון ונאון וקני נוחם עדן הכין הוה עבדין כואתנא ואף  
אתון הכין עבדין. Harkavy, N. 210. Ebenso in einem Responsum R. Hais im  
*Sefer ha-Terumoth* XXXVI, 1: „So ist unser Brauch und so handeln wir und  
ihr handelt ohne Bedenken ebenso und weicht nicht davon ab.“ וכן מנהנו  
וכן. Ein anderes Responsum (Harkavy, N. 200) schliesst R. Hai mit den Worten: „Deshalb ist es richtig  
nach unseren Brauch zu handeln“, הילכך כמנהנו ראוי לעשות. Vielleicht gehört  
dazu auch folgende Stelle: „Auf eine Anfrage des R. Nissim betreffend einen  
aus Aegypten übernommenen Brauch antwortet R. Hai: „Unser Brauch ist  
so wie ihr es tut, und wie es in Aegypten üblich ist ist nicht verwerflich und  
von ihrem Standpunkte richtig, aber das Behalten des Brauches der Vorfahren  
ist schön und vorzuziehen, umsomehr, als manche widerstreben und den  
neuen Brauch nicht annehmen wollen.“ ואשר כן מנהנו כמו שאחם עושים וכו'.  
חבר במצרים אינן דברים מכוערים אלא דברים יפים לטעמיהם אלא שאחיות מנהג הראשונים  
S. 110. Man vergleiche dagegen Resps. N. 65.—Vgl. noch das Responsum R. Hais  
bei Mann, *JQR* NS, VII, 471 und bei Assaf in *מדעי היהדות*, II, 101, N. 113.

Geonim Scherira und Hai andererseits keine Beziehung entstehen. Durch die fortgesetzte Tätigkeit der „Talmidim“ steigerte sich der Unwille der Geonim zu einer immer mehr gereizten Stimmung.

So sehen wir, dass in dem Responsum, wo die Fragesteller mitteilen, dass Schüler aus Edom angekommen sind, die in einer Herberge wohnten, der Gaon die Handlung der Schüler gutheisst. Gleich bei ihrer Ankunft hatten die „Talmidim“ noch keine Gelegenheit, in die religiösen Verhältnisse Kairuans einzugreifen, da konnte der Gaon (scil. Scherira) in objektiver Weise ihre mit der Halacha übereinstimmende Entscheidung gutheissen, ja sogar lobend hervorheben. Später werden die Entscheidungen der „Talmidim“ mehr oder weniger streng zurückgewiesen.

In zwei Responsen finden wir auch einen ungemein scharfen Tadel gegen die „Talmidim.“

„Wäre das Geld eines Amha-areš frei, dann müsste auch das Geld dieser Talmidim als frei erklärt werden, da sie gleich einem Am ha-areš sind. Die Halacha steht nämlich fest, wie die Ansicht der Acherim,<sup>26</sup> dass derjenige, der den Umgang mit Gelehrten nicht genossen hat, mag er auch Bibel und Mischnah studiert haben, ein Am ha-areš ist.“<sup>27</sup>

Noch viel schärfer ist eine andere Aeussierung Scheriras:

„In eurer Anfrage heisst es, dass es unter euch Talmidim gibt—Füchselein, an denen nichts ist, die die Entscheidungen der Geonim anfechten, indem sie sagen: woher haben sie es?

<sup>26</sup> Ber. 47b.

<sup>27</sup> *Resp. d. Geonim*, ed Harkavy, N. 380, *Schaare Teschuba*, N. 323, Lewin, *R. Scherira Gaon*, S. 18, setzt als selbstverständlich voraus, dass diese „ame ha-areš,“ deren Geld die „Talmidim“ als frei erklären wollten, Karäer waren. Es ist aber dafür nicht der geringste Anhaltspunkt vorhanden. Scherira schliesst sein Responsum über die Unreinheit der menstruierenden Frau mit den Worten: „Bei allen Gelehrten ist der Brauch, dass man sich von der Menstruierenden fernhält, ein Zaun ist in bezug darauf errichtet worden und wer ihn durchbrechen will, verdient den Schlangenbiss der Gelehrten. Diejenigen, die anderer Meinung sind, können also unmöglich Gelehrte sein. Was aber in der Öffentlichkeit mitgeteilt werden kann, ist eine Erschwerung. Es ist Sache des Glaubens, Vorbeugungsmassnahmen zu treffen, nicht aber die Bresche zu erweitern, denn die Bresche lockt den Dieb. Und wer zu den gesinnungsvollen Menschen gehört, wird es so halten.“ Zum Text vgl. Albeck z. St. in *Eschkol*.

Sie zeigen euch ihre Texte vor. Diese Talmidim verstehen das Werk Gottes nicht und haben auch nicht einen kleinen Teil davon erfasst, was der jüngste Schüler des Geringsten unter den Geonim erfasst hat . . .

Wie können die kleinen Füchselein es wagen, über Gott und sein Erbteil sich abfällig zu äussern . . . als irrenden zu bezeichnen den jüngsten Schüler des Geringsten unter den Geonim . . . jeder, der gegen eine Entscheidung der Geonim auftritt, tritt gegen Gott und seine Lehre auf."<sup>28</sup>

Dass die „Talmidim,“ die auch von dem Gaon quellenmässige Begründung seiner Entscheidung verlangten und sogar den Mut fanden, die Entscheidung des Gaon anzufechten, nicht Schüler im geläufigen Sinne des Wortes waren, ist selbstverständlich. Nur ganz besonders hervorragende Gelehrte und gestützt auf eine andere Autorität konnten es sich herausnehmen, den Entscheidungen des Gaons gegenüber eine ablehnende Haltung einzunehmen.

Nun wissen wir aber, dass die Gelehrten Nordafrikas<sup>29</sup> und

<sup>28</sup> Responsum Scheriras, *Schaare Teschuba* N. 187, *Schaare Zedek*, Einleitung und *Chemda Genuza*, Einleitung. Gegen Rapoport, *Zusätze zur Biographie R. Natans* zu Anm. 32, der aus diesem Responsum weitgehende Schlüsse in bezug auf den Charakter Scheriras zog, hat Luzatto, *Beth ha-Ozar*, I, 55f., das Responsum als Fälschung erklärt. Harkavy, Einleitung zu der von ihm herausgegebenen Responsensammlung, S. Xf., versucht diese Behauptung Luzattos ausführlich zu begründen. Seine Argumente hat Schorr, *Hechaluz*, XIII, S. 51f., gründlich zerstört. Hinzuzufügen ist folgende wichtige Frage: Wer in nachgaonäischer Zeit hat das Interesse gehabt, die Geonim so in den Himmel zu heben? R. Chasan in *איי דים* hält an der Echtheit fest. Auch Weiss, *דור דור ודורשו*, IV, S. 166, berührt die Echtheitsfrage nicht und Müller, *Maf-teach*, S. 182, führt Beweise für die Echtheit an.

<sup>29</sup> An erste Stelle ist hier *Kairuan* zu nennen, wo die beiden Gelehrten R. Jakob b. Nissim und sein Sohn R. Nissim in innigster Verbindung mit R. Scherira und Hai standen. Ueber die Stellen wo Anfragen aus Kairuan gebracht werden s. Poznanski *אנשי קירואן*. Vgl. noch das Responsenverzeichnis *Geonica* II, 67f.; *מעשה רוקח* (Sanok, 1916), S. 16f., N. 54–65; *Responsen d. Geonim*, ed. Assaf, SS. 127, 138f.

Andere Orte Nordafrikas, aus denen Anfragen kamen, vgl. Mann, *JQR*, NS, VII, S. 481f. Dann:

*Kabes: Resp. d. Geonim*, ed. Harkavy, N. 59ff., 315ff., 339ff., 351ff., 363ff., 425ff., *Geonica*, S. 68; *Ginze Kedem*, ed. Lewin, IV, S. 91 = *Ozar ha-Geonim*, II, S. 60.



Aegyptens<sup>30</sup> in engster Beziehung zu den babylonischen Akademien und ganz unter ihrem Einfluss standen. Von ihrer Seite war ein Widerspruch zu den Entscheidungen der Geonim nicht zu erwarten. Wir finden zwar in Kairuan schon vor der Einwanderung R. Ḥušiels palästinische Bräuche;<sup>31</sup> aber diese decken sich grösstenteils mit den Bräuchen der Akademie zu Sura,<sup>32</sup> so dass sie entweder direkt von Sura herrührten oder von den suranischen Geonim gutgeheissen wurden. Wichtig dafür ist folgende Anfrage der Bewohner von Cables an R. Hai:

„Wir finden in den ‚Verschiedenheiten zwischen den Bewohnern Babyloniens und Palästinas‘ folgende Differenzen in bezug auf die Neuvermählte. Wir haben auch ein Responsum von R. Natronai gesehen, der im Sinne der Babylonier entschied. Möge uns unser Herr darüber belehren, wie die Halacha und wie euer Brauch in der Beziehung ist.“<sup>32a</sup>

*Fes:* קבוצת חכמים, S. 109f.; *Resp. d. Geonim*, ed. Assaf in *Madae ha-jahaduth* II, S. 39, N. 9; *Ginze Schechter*, ed. Ginzberg, II, S. 290.

*Tlemcen:* *Resp. d. Geonim*, ed. Harkavy, N. 37ff., (und die Bemerkungen Harkavys S. 347f.), N. 68ff., N. 426; נמ"ס N. 133 und die Bemerkung Müllers; חש"ר II, S. 31, N. 9.

*Taharet:* Poznanski *ZfHB*, XII, 219f.; Mann *JQR*, NS, VII, 356f.; *Resp. d. Geonim*, ed. Assaf, S. 23.

*Mignah:* Assaf, a. a. O., S. 2.

<sup>30</sup> R. Schemariah und sein Sohn R. Elchanan. Vgl. über Aegypten Mann, a. a. O., S. 479f.

<sup>31</sup> Vgl. Büchler *REJ*, L, S. 165ff.

<sup>32</sup> Vgl. Büchler, a. a. O., S. 147ff., 165ff., 177ff. Dass in Sura palästinische Bräuche herrschten, vgl. Ginzberg, *Ginze Schechter*, II, SS. 508, 513, 517f., 525. Der Hinweis aus Büchlers Aufsatz fehlt bei Ginzberg. Eine wichtige Uebereinstimmung zwischen Sura und Palästina vgl. Aptowitzer *REJ*, 1909, S. 249ff.

<sup>32a</sup> *Responson d. Geonim*, ed. Harkavy, N. 67: והא דאשכחנן בחלוקות שבין אנשי בבל וארץ ישראל אנשי מורה אוסרין כלה על בעלה כל שבעה הימים מפני שהיתה בחולה ונעשת נדה. אנשי ארץ ישראל על שהוא מוציא דם בתולים מיד מותרת. וראינו תשובה לאדוננו מר רב נטרונאי נאון וזכר צדיק לברכה שנשאל על האי דאמור רבנן בעל בעילה מצוה ופירש צריכה שבעה נקיים וטבילה כעוקר ובה או לא. והשיב תנוקת חשו לה חכמים שמא עם טורח דם בתולים אי אפשר לבוא דם בתולים בלא צחצוחי זיבה וכיון דמשום הכין הוא לא שנא ראתה ועודה בית אביה ונישאת ולא הגיעה זמנה לראות ונישאת ולא שנא ראתה צריכה שבעה נקיים וטבילה כעיקר ובה. ילמדנו אדוננו הילכתא מאי ובאי זה צד מנהאיכון בהא מלתא. מנהאנא דילן כדכתב לכון מר רב נטרונאי אם בעל וראתה דם אע"פ שראתה דם ינמור ביאתו ואחר כן פורש ונוהגת עצמה כנדה כל שבעה

Wie war der frühere Brauch in Cables, bevor die Anfrage an R. Natronai gerichtet wurde, und was hat diese Anfrage veranlasst? Da ist zweierlei möglich, entweder entsprach der Brauch von Cables dem Brauche des Ostens, gegen den eine Opposition seitens Palästinenser entstand, die ihren Brauch einführen wollten, oder er entsprach dem palästinensischen Brauch, gegen den eine babylonisch gesinnte Partei auftrat. In jedem Falle aber haben die Bewohner von Cables den palästinensischen Brauch weder neu eingeführt noch abgeschafft, ohne vorher das Gutachten des Gaons einzuholen.

Es ist nun die Frage, was hat dann wieder die Anfrage an Hai veranlasst? War die Autorität R. Natronais so stark, dass sie seine Entscheidung gegen ihren Brauch angenommen haben, dann hat die Frage an Hai keinen Sinn, eine Zustimmung war nicht mehr nötig und eine eventuelle Widerlegung konnte doch nicht stärker sein als die Entscheidung R. Natronais. Stimmt aber die Entscheidung R. Natronais mit ihrem alten Brauch überein, so hatte die Anfrage an R. Hai umso weniger Sinn. Folglich kann die Anfrage an R. Hai ebenfalls nur durch eine Opposition gegen den bestehenden Brauch erklärt werden. Diese Opposition konnte aber, wie wir gesehen haben, nicht von den alten Bewohnern Cables' ausgegangen sein, sondern von eingewanderten Gelehrten, die wieder auf den palästinensischen Brauch zurückgriffen und ihn in Cables neu einführen oder wieder aufleben lassen wollten. Also Gelehrte aus einem Lande, das unter dem Einflusse Palästinas stand—Italien.<sup>32b</sup> Nun ist es zwar nicht bekannt, dass italienische Gelehrte in Cables eingewandert sind, wir wissen aber, dass, wie wir bald sehen werden, Cables in enger Beziehung mit Kairuan stand, wo R. Hušiel und seine Schüler wirkten.

Auf diese Weise sind auch alle Anfragen aus Kairuan<sup>33</sup> und Nordafrika zu erklären in bezug auf Bräuche, die dort seit altersher in Geltung waren. Was hat die Fragesteller veranlassen können, gegen die Bräuche ihrer Vorfahren auf einmal Bedenken

<sup>32b</sup> Vgl. Halevy, *Doroth ha-Rischoṇim*, III, 2, S. 288–290, Ginzberg, *Ginze Schechter*, II, 254.

<sup>33</sup> Vgl. das oben Anm. 32a zitierte Responsum und N. 65 bei Harkavy, S. 30.

zu tragen? Doch nur eine von angesehenen Gelehrten unter Berufung auf massgebende Quellen ausgehende Opposition,<sup>33a</sup> was in manchen Fällen ausdrücklich gesagt wird.<sup>33b</sup> „Sie ziehen ihre Bücher hervor,“<sup>34</sup> sagt der Gaon. Diese Bücher, die sie den Entscheidungen des Gaons entgegenstellten, also autoritative Schriften, sind gewiss der jerusalemische Talmud<sup>35</sup> und andere palästinische Schriften. Auch dies zeigt auf R. Ḥuṣiel, der wie wir gesehen haben, dem Studium des Jeruschalmi besondere Aufmerksamkeit zuwendete. (

Daraus ergibt sich nun, dass R. Ḥuṣiel niemals an einer gaonäischen Hochschule studiert hat.<sup>36</sup> In der Tat ist ja in letzter Zeit festgestellt worden, dass R. Ḥuṣiel nicht zu den „vier Gefan-

<sup>33a</sup> Vgl. *Responsen d. Geonim*, ed. Lyck, N. 61 (= *Ozar ha-Geonim*, ed. Lewin, II, 1, S. 18, N. 46); Responsensammlung קבוצת חכמים, S. 109f. (= *Ozar ha Geonim* das. S. 104 N. 320), *Resp. d. Geonim*, ed. Assaf, S. 87, vgl. Assaf, das., S. 86.

<sup>33b</sup> Vgl. das Responsum נמ"ט N. 44 (bei uns N. 2), bei Ibn Giath, II, S. 100 (bei uns N. 4), und Harkavy, N. 389, (bei uns N. 6). *Schaare Teschubha*, N. 221 (*Ozar Ha-Geonim*, II, 1, 150) in einem Responsum d. R. Matatja: „Es kamen zu euch Gelehrte und sagten: das Melken am Sabbath ist erlaubt, wenn er ein sonst nicht zum Melken verwendetes Gefäß nimmt. Diese Gelehrten, die euch das Melken am Sabbath erlaubten, haben nicht richtig entschieden, ihre Entscheidung entspricht nicht der Halacha und ist unpassend. Sie haben unrichtig gehandelt, indem sie über eine Sache entschieden, bei welcher sie nicht alle Möglichkeiten des Verbietens und Erlaubens überprüft haben.“

<sup>34</sup> וחולקים ואומרים על נאונים עמודי עולם, מנין להם דבר זה ומוציאים ספריהם. Zu diesem Ausdruck vgl. Chasan z. St. Was Ben Amosag vorschlägt, gibt keinen Sinn.

<sup>35</sup> Vgl. oben Anm. 22

<sup>36</sup> Vor der Zeit Hais finden wir keine Spur von Schülern aus nicht-muhammedanischen Ländern in den babylonischen Akademien. Zu diesem *argumentum e silentio* kommt noch folgender wichtiger Anhaltspunkt. R. Samuel über Nagdelah in seiner Elegie über den Tod Hais hebt hervor, dass bei ihm auch Schüler aus Europa studiert haben: ילדים לו בכל ארץ ערבית: Brody S. 11. Poznanski, *Babylonische Geonim*, S. 5.

Schüler aus Konstantinopel erwähnt R. Hai in seinem Responsum an R. Nissim. *Resp. d. Geonim*, ed. Harkavy, N. 225, S. 105. In einer Hs. des British Museum (Or. 1054) abgedruckt in ספר העצמים, ed. Grossberg, S. 46 heisst es: וראיתי כחוב בספר רבינו ש' שהיה כחוב בעיר סיפונטא אשר במלכות לומברדיאה: ובית המדרש של ר' יהודה המכונה ר' ליאון ב"ר אלחנן ב"ר יהודה נב"ה ולפני רבינו מנחם הכהן ורבינו יהודה ושאר רבנים המובהקים אשר למדו בישיבת רב האי נאון בן רב שרירא נאון.

R. Isak b. Jehuda, einer der Lehrer Raschis hat in Rom eine Erklärung im Namen R. Hais gehort. *Mordechai Sabbath*, N. 398.

genen" gehörte, sondern auf einer Reise von Italien nach Aegypten, zum Besuche R. Schemarias in Fostat, in Kairuan zurückgehalten wurde, wie wir aus seinem Briefe an R. Schemaria erfahren.<sup>37</sup>

In jüngster Zeit aber hat *Mann*<sup>38</sup> es unternommen, die Angabe Ibn Dauds wenigstens ihrem Kern nach zu retten, indem er meint: R. Ḥušel, der den Brief an R. Schemaria schrieb, ist nicht identisch mit R. Ḥušel, dem Vater R. Ḥananel. Seine Argumente sind:

1. R. Ḥušel in seinem Briefe an R. Schemaria erwähnt bloss seinen Sohn R. Elchanan, nicht aber auch R. Ḥananel.
2. Samuel ibn Nagdila in seinem Trosts Schreiben an R. Ḥananel über den Tod R. Ḥušels erwähnt den R. Elchanan nicht: folglich kann R. Ḥananel nicht der Bruder R. Elchanans gewesen sein, sondern es hat zwei Gelehrte namens Ḥušel gegeben. Der eine, der Vater des R. Elchanan, der den Brief an R. Schemaria schrieb, ist auf seiner Reise aus Italien nach Aegypten nach Kairuan gekommen; R. Ḥušel aber, der Vater R. Ḥananel, gehörte zu den vier Gefangenen und war nach Kairuan gebracht worden, wo er ausgelöst wurde.

Mann selbst aber bemerkt, dass seine Theorie deshalb wenig einleuchtet, weil es schwer ist anzunehmen, dass es zu einer und derselben Zeit an ein und demselben Orte zwei Gelehrte namens Ḥušel gegeben, die—so muss man hinzufügen—beide nach Kairuan eingewandert sind und zwar beide aus Italien. Er muss aber, so meint er, sich über diese Bedenken hinwegsetzen, weil er sonst auf seine Fragen keine Antwort findet. Nach seiner Theorie aber findet man keine Antwort auf folgende Fragen: War R. Ḥušel, der Vater R. Ḥananel, ein Schüler der Akademie zu Pumbeditha: woher die vielen Abweichungen von den gaonäischen Traditionen in den Kommentaren seines Sohnes? Wie ist es möglich gewesen, dass R. Ḥušel selbst die Akademie zu Pumbeditha so ganz vergessen konnte, so dass auch nicht die geringste Spur einer Verbindung zwischen ihr und ihm vorhanden ist, ebenso wie zwischen seinem Sohne R. Ḥananel und Pumbeditha, zu einer Zeit, wo die anderen Gelehrten Kairuans in so regem Verkehr mit dieser Hochschule standen?

<sup>37</sup> Veröffentlicht aus der Geniza von Schechter in *JQR*, XI, S. 643f. Vgl. Poznanski: *אנשי קירואן*, S. 18f.

<sup>38</sup> *JQR*, NS, IX, S. 166–171.

Auf diese Fragen kann es keine andere Antwort geben als die, dass R. Ḥuṣiel, der Vater R. Ḥananel's, nie mit der Akademie zu Pumbeditha etwas zu tun hatte. Folglich kam er nach Kairuan direkt aus Italien und ist daher identisch mit R. Ḥuṣiel, dem Vater R. Elchanan's, der den Brief an R. Schemaria geschrieben hat. Die Fragen Mann's aber können am besten durch die von Schechter vorgeschlagene Lösung beantwortet werden: Ḥananel und Elchanan sind ein und dieselbe Person. Nicht aber wie Schechter meint, dass R. Ḥuṣiel den Namen seines Sohnes Elchanan deshalb in Ḥananel geändert, um eine Verwechslung seines Sohnes mit dem Sohne R. Schemarias zu vermeiden, da, wie Mann<sup>39</sup> gezeigt, R. Elchanan diesen seinen Namen auch nach dem Tode seines Vaters geführt hat. Vielmehr sind die Namen für ein und dieselbe Person so zu erklären, dass der ursprüngliche Name Elchanan während seiner Krankheit in Ḥananel geändert wurde<sup>40</sup> und so waren beide Namen in Gebrauch, der familiäre Name war Chananel, in offiziellen Akten aber zeichnet er Elchanan.<sup>41</sup> Dr. Mann dürfte sich gegen diese Annahme umso weniger sträuben, als er selbst die Hypothese aufgestellt hat, dass der suranische Gaon R. Zadok, der häufig Jizchak genannt wird, beide Namen Jizchak—Zadok führte.<sup>42</sup>

Es ergibt sich aus unseren Ausführungen, dass die Gelehrten, die aus Rom gekommen sind, und die „Talmidim“ in den Re-

<sup>39</sup> Das. S. 166.

<sup>40</sup> In den rabbinischen Quellen heisst es: Vier Dinge wenden ein böses Verhängnis ab, darunter Aenderung des Namens b. R. H. 16b. Tan. נח §8 (ed. Buber §13); Koh. r., 5. 6; *Pirke Rabbenu ha-qadoš*, ed. Schönblum, 23a, ed. Grünhut (*Liqqutim*, III), S. 67, Ueber den Brauch den Namen der Kranken zu ändern vgl. *Schulchan Aruch*, Joreh Deah, §345 Ende.

<sup>41</sup> So finden wir—um zwei Beispiele aus der älteren gaonäischen Epoche anzuführen—dass der Gaon Scheschna offiziell den Namen Mescharschia führte. והוא בסורא מר רב ששנא דכתיב על חומרתיה משרשיה בר חחליפא. *Scherirabrief*, ed. Levin, S. 102. Auch der Gaon Natronai I, der offiziell diesen Namen führte, hiess Mar Janka. *Scherirabrief* das. ובחריה מר רב נטרונאי וידע בכר מר ינא. Auch in talmudischer Zeit finden wir ähnliches: Mar, der Sohn R. Aschi's hiess eigentlich Tabiume. Vgl. *Scherirabrief*, ed. Lewin, S. 95: רב טביומי דהוא מר בר רב אשי. Die Quelle ist B. Bathra 12b.

<sup>42</sup> *JQR*, NS, VIII, 340, XI, S. 444f. Sonst wird יצחק als Verschreibung von צדוק aufgefasst, vgl. Aptowitzer zu *Rabia* II, S. 147, Anm. 11; Ginzberg, *Ginze Schechter*, II, S. 9; Assaf, *Responsen der Geonim aus der Geniza*, S. 3. und Anm. 2.



sponsen R. Scheriras und R. Hais nach Kairuan R. Ḥuṣiel und seine Schule sind.

Zu den autoritativen Quellen, die, wie oben erwähnt, R. Ḥuṣiel und seine Schule den Entscheidungen der letzten pumbedithanischen Geonim entgegenstellten, sind vielleicht auch Entscheidungen der alten suranischen Geonim zu rechnen, während in Kairuan zu jener Zeit—nach dem Niedergange der suranischen Akademie—die pumbedithanischen Bräuche Geltung erlangt haben.<sup>42a</sup>

1. In dem Responsum R. Scheriras betreffend die *Berührung mit Geräten der Menstruierenden*<sup>43</sup> machen die „Talmidim“ gegen den alten erschwerenden Brauch in Kairuan den Satz geltend: „in unseren Tagen können wir von anderen Unreinheiten nicht reinigen, levitische Reinheit zur Hälfte kann es aber nicht geben.“<sup>44</sup> Ähnlich heisst es in einem Responsum R. Sar Schaloms:<sup>45</sup> „Die Geräte einer Menstruierenden dürfen in unserer Zeit, wo alles mit schwerer Unreinheit behaftet ist, die überhaupt nur mit der Asche der roten Kuh gereinigt werden kann, angezogen werden.“ Es ist höchst wahrscheinlich, dass die „Talmidim“, die sich auf eine Entscheidung der „heiligen Akademie“ berufen,<sup>46</sup> an dieses Responsum Sar Schaloms und ein Responsum R. Jehudais<sup>47</sup> denken.<sup>48</sup>

<sup>42a</sup> Vgl. das schon vorher zitierte Responsum in der Sammlung קבוצת חכמים, S. 109f. (= *Ozar ha-Geonim*, II, 1, S. 204), wo R. Hai dem R. Jakob antwortet: „Unser Brauch ist so wie ihr es übet.“

<sup>43</sup> נגמ׳ N. 44, *Eschkol*, S. 4, oben S. 423.

<sup>44</sup> ואמרו שלא לפרוש ממשכב ומושב של נדה שאין לנו טהרה משאר טמאות כגון טומאת מת והביאו על זאת טעם לדבריהם ואמרו וכי יש טהרה לחצצאין וכיון שאי אפשר לנו לטהר משאר טמאות אין לנו לפרוש ממשכב ומושב של נדה.

<sup>45</sup> *Halachoth Pesukoth*, ed. Müller, N. 76: וכלי נדה בזמן הזה שהכל טמאין טומאה: חמורה שאין לה טהרה עולמית אלא באפר פרה מותר ללבש בין יש עליהן דם בין אין עליהן דם אם דעתה יפה ומתקבלין עליה.

<sup>46</sup> ושלו ממתבתה הקדושה שנדה מותרת ללכת לבית הכנסת: *Eschkol* und נגמ׳ <sup>46</sup> ולהתפלל ולובשת בגדי בעלה ולובש את בגדיה ובלבד שלא יהא בהם דם.

<sup>47</sup> *Halachoth Pesukoth*, N. 77: שאילו קמיה דרב יהודאי נדה מהו לצלויי ואמר שפיר: דמי חוב שאלו 3 Abs. *Responsen der Geonim*, ed. Lyck, N. 45, II, S. 5, N. 2, תשׁר׳ und מקמה נדה מהו מלצלויי או למיעל בני כנישתא ואמר שפיר דמי. wo alle Fragen von Lyck N. 45 in Namen R. Natronais angeführt werden. Ein ähnliches Responsum anonym im שׁע״נ N. 170, doch im כלבו im Namen Natronais, vgl. א״י הים Z. St.

<sup>48</sup> Nach den uns vorliegenden Texten gibt es eine wichtige Differenz

In der Tat finden wir, dass die einzige Spur einer Verbindung zwischen Italien und Babylonien in älterer Zeit nach Sura zu R. Sar Schalom führte.<sup>49</sup>

2. Wir haben in der Anfrage des R. Jakob b. R. Nissim<sup>50</sup> im Namen eines Teiles der „Talmidim“ den Satz erwähnt gefunden: „wer schwört, sich von seiner Frau scheiden zu lassen, bekommt die Prügelstrafe und kehrt zu seiner Frau zurück.“ Dieser Satz stammt aber aus den R. Jehudai Gaon zugeschriebenen Halachoth.<sup>51</sup> Warum führt R. Jakob diesen Satz als Ausspruch der „Talmidim“ an? Dies ist in folgender Weise zu erklären: Ueber den Satz R. Jehudais wurde eine Anfrage an R. Sar Schalom oder R. Natronai gerichtet. Der Gaon erklärt diese im Namen R. Jehudais überlieferte Entscheidung als null und nichtig. So kam sie ausser Geltung und wurde dann wieder von den „Talmidim“ aufgenommen.

3. Zu der oben<sup>52</sup> mitgeteilten Entscheidung der מקצת התלמידים in bezug auf den Text eines Punktes der Ketuba bemerkt der

zwischen dem „Erlass der heiligen Akademie“ und dem Responsum R. Sar Schaloms. In diesem heisst es: בין שיש עליהן דם בין שאין עליהן דם während die Talmidim sagen: ובלבד שלא יהא בהם דם. Entweder haben wir es mit zwei Versionen des Responsums zu tun, oder ובלבד usw. gehört nicht mehr zum Erlass, sondern ist eine, den Akademieerlass einschränkende Bemerkung der Talmidim.

<sup>49</sup> Mann in *JQR*, NS, VII, S. 488, Anm. 36 meint: We thus find this Gaon already corresponding with Italian scholars. But we should have expected the Gaon sending the responsum to the scholars of Rome and not the reverse (שהשיבו).“

Aber שהשיבו ist hier nicht im Sinne von Antworterteilen, sondern im Sinne von Replizieren zu verstehen: „Auf die Antwort des Gaons haben die Gelehrten von Rom repliziert und ihre Meinung geltend gemacht.“ Wenn nicht ganz einfach zu lesen ist: רב שר שלום (הם) ל' (הם) רומי שהשיבו (ו) ל' (הם) רב שר שלום. Wie wir öfters eine ähnliche Verwechslung finden, darüber an einer anderen Stelle.

<sup>50</sup> *Geonim*, ed. Harkavy, N. 345, bei uns oben S. 422.

<sup>51</sup> ושאמרת שכתוב בהלכות קצובות הנשבע על אשתו לוקה על שבועתו ויקיים אשתו. Gaonäisches Responsum in den *Responsen des R. Meir b. Baruch aus Rothenburg*, ed. Prag (Budapest) N. 121, ed. Cremona N. 18 u. a. In allen Quellen wird das Responsum R. Hai zugeschrieben. Ich habe aber an anderer Stelle gezeigt, dass dieses Responsum R. Sar Schalom oder noch wahrscheinlicher R. Natronai gehört. Vgl. ausführlich darüber *Tarbiz*, I, 4, S. 69.

<sup>52</sup> Vgl. oben Anm. 15a.

Gaon: Dies die Ansicht des suranischen Gaons R. Mose ha-Kohen.<sup>53</sup>

אילין מילי דמר משה הכהן גאון מחסיא.<sup>53</sup>

#### NACHTRAG

S. 62f.—Wiederaufleben palästinischer Bräuche in Nordafrika and dadurch verursachte Anfrage bei den Geonim, Italien und Palästina. Das in Anm. 25 angedeutete Responsum, *Hamachria* N. 42, gehört sicher *Scherira*. Vgl. Ginzberg, *Ginze Schechter*, II, 295 und Assaf in *Zion*, I, Separatum, S. 9, Anm. 2 und zu *Sefer ha-Schetaroth* (מסוף החרבין, I) S. 14, Anm. 3. In diesem Responsum sagen die Fragesteller: Wir besitzen einander widersprechende Responsen der Geonim. Zum Teil entscheiden sie wie R. Simon b. Gamliel, dass die Kethuba eine biblische Institution ist (Kethub. 10a, 15a) und dementsprechend heisst es in den alten Kethuboth aus der Zeit unserer Vorfahren: „die dir gebühren nach Vorschrift der Thora, דחון ליכי מדאורייתא.“ Zum Teil entscheiden sie wie die Gegner R. Simon b. Gamliels, dass die Kethuba bloss rabbinische Verordnung ist. So auch zuletzt R. Chananja Gaon, der Vater unseres Herrn (d. h. Scheriras). Manche aber entscheiden wie R. Simon b. Gamliel.

Diese letztere Bemerkung der Fragesteller ist äusserst auffallend. Da die „Manchen“ keinen neuen Gesichtspunkt vorbringen und bloss mit der ersten Ansicht übereinstimmen, so hätten sie mit jener zusammengezogen werden müssen, ohne selbständig aufzutreten. Wenn sie es aber trotzdem tun, so kann dies nur aus der entwicklung des betreffenden Brauches im Geiste der Fragesteller erklärt werden: In alter Zeit richtete man sich nach Palästina. Als dann der babylonische Einfluss in ihrem Orte erstarkte, wandten sie sich nach Sura und Pumbeditha, wie die Nordafrikaner, besonders aber die Kairuaner mit beiden babylonischen Akademien in Verbindung standen. In unserem Falle erfolgte wahrscheinlich die Anfrage an die beiden Hochschulen zu gleicher Zeit, wie wir es in einem anderen Falle bestimmt wissen. (vgl. weiter unten). Die beiden Hochschulen antworteten jede nach ihrem Standpunkt, so entstand ein Schwanken. Die einen behielten den alten Brauch, mit dem die Entscheidung der suranischen Geonim übereinstimmte, andere wieder hielten es mit der Entscheidung Pumbedithas. Daher die nochmalige Anfrage an R. Chananja. Nachher wieder traten die „Manchen“ auf, die wieder auf den alten, palästinisch-suranischen Brauch zurückgriffen, daher die Frage an Scherira.

Wer waren nun die „Manchen“?

Zwischen der Anfrage an R. Chananja (st. 943) und der an Scherira liegt—wenn wir auch das Unwahrscheinliche voraussetzen wollen, dass die Anfrage an R. Chananja in dessen letzten Lebensjahre und die an Scherira im ersten Jahre seines Gaonats (967) erfolgte—mindestens ein Zeitraum von 24 Jahren. Während dieser Zeit hatte es also im Orte der Fragesteller keine

Opposition gegen die Entscheidung R. Chananjas gegeben. Von wem ist nun später ein Widerspruch gegen die Entscheidung des Gaon und das Zurückgreifen auf den uralten, palästinischen Brauch ausgegangen? Doch nicht von einem heimischen Gelehrten des Ortes, sondern von fremden Eingewanderten die dem Brauch ihrer Heimat in ihrem neuen Wohnort Geltung verschaffen wollten. In der Heimat dieser Gelehrten herrschte also ebenfalls der palästinische Brauch. Diese Heimat ist *Italien*. Wir finden nämlich gerade in bezug auf den Punkt, um den es sich in der Frage an Scherira handelt, eine merkwürdige Ueberinstimmung zwischen der alten Kethuba Italiens und der alten Kethuba in Palästina. In eineren alt *jerusalemischen* Kethuba (veröffentlicht vor Berliner in קובץ על יד, 1893, vgl. Büchler *REJ* L, 154) heisst es: וקירש זה פלוני את פלונית ואת בטבעת אחת ובמאתים וזו שהם שמונה זהובים ושליש כתובת תורת ומה שאנו כותבין בכתובותינו ומה שאנו כותבין וזהובים ושליש כתובת תורת משה אליבא עכשיו מאתים וזו שהן שמונה זהובים ושליש כתובת תורת משה אליבא דמאן דאמר כתובת אשה מן התורה אתיא. Nun finden wir aber die Umrechnung 200 זוז = 8 Goldmünzen in einer Anfrage aus *Kairuan an Scherira*: „Zur Zeit der Zahlung werden die 400 זוז mit 16 Goldmünzen berechnet, mit den grossen arabischen Goldmünzen.—שעת פירעון מצדפין אותן ח' זוז שש עשרה זהובים גדולים.—בשעת פירעון מצדפין אותן ח' זוז שש עשרה זהובים גדולים (Resp. d. Geonim, ed. Harkavy, N. 210, S. 97. Für die Autorschaft Scheriras s. Harkavy S. 360 oben).

Die Gewohnheit der Kairuaner, ihre Anfragen *gleichzeitig* nach Sura und Pumbeditha zu schicken, erfahren wir aus einem in jüngster Zeit veröffentlichten Responsum R. Nachšons, der diesen Vorgang heftig tadelt. Mann, *Texts and Studies*, I, 562ff. Diskussion S. 561f.

Die Gelehrten aber, die zur Zeit Scheriras aus Italien nach Kairuan gekommen sind, sind R. Ḥušel und sein Gefolge. Manns neues Buch, *Texts and Studies*, bietet auch manche für das Ḥušel-Problem wichtige Texte, die an anderer Stelle ausführlich besprochen werden sollen. *Jahresbericht 1931-32 der israelitisch-theologischen Lehranstalt in Wien*.





## THE SERMONS OF EPHRAIM LUNTSHITZ

ISRAEL BETTAN, Hebrew Union College, Cincinnati, Ohio

### I

**E**PHRAIM LUNTSHITZ, whose full name was Solomon Ephraim ben Aaron, was born in Lenczycza,<sup>1</sup> Poland, about the middle of the sixteenth century. While the exact date of his birth is unknown, it is safe to place it in the fifth decade of the century, since he died in 1619, March 3, less than a year after he had been relieved of his onerous duties as Chief Rabbi of Prague, presumably on account of his advanced years. His original name Ephraim received the addition of Solomon as late as 1601, when, during a severe illness, in conformity with the prevailing practice of the day, a modification in his name was resorted to as a means of breaking the spell that held him in its grip.<sup>2</sup> His childhood was spent in his native town, where, either at the hands of his father who was a man of some learning, or at some local Hebrew school, he received the customary training in the elements, completing which he was sent to Lublin to enrol in the Yeshiva presided over by the celebrated Talmudist Solomon Luria, to whose **ים של שלמה** while yet in manuscript, Luntshitz somewhat later referred with much admiration and reverence.<sup>3</sup> It was at Lublin that his great homiletical powers began to unfold; for a short while thereafter, still in his early youth, we find him in Yaroslav engaged, amidst dire poverty, in putting into proper form the first fruits of his homiletical efforts, his **עיר גבורים**.<sup>4</sup> At first, he informs us, out of deference to the older men in the pulpit, he abstained from preaching much in public,

<sup>1</sup> The sobriquet Luntshitz, by which he is best known, is thus derived from the name of his birth-place, the difficulty in transliteration accounting for the differences in pronunciation.

<sup>2</sup> **כלי יקר**, הקדמה, Lemberg 1888.

<sup>3</sup> **מצורע**, עיר גבורים, p. 21, Lublin 1884.

<sup>4</sup> **עוללות אפרים**, הקדמה, Amsterdam 1779.

contenting himself with the steady accumulation of material for future publications.<sup>5</sup> Later, however, when somewhat older in years and richer in experience, he seems to have lost all of his shyness and most of his esteem for his older colleagues. For on more than one occasion, when preaching before large assemblages, at Yaroslav, at Lemberg, and especially at Lublin, during the Conferences of the Council of the Three Lands, coincident with the great fairs, he assailed with much vigor and candor the laxity, the spiritual deadness, of rabbis and laymen alike, often receiving little more for his pains than the caustic criticism and active enmity of the self-complacent crowds who thronged to hear him.<sup>6</sup> "In my later years, yielding to the importunities of men of prominence, I held forth at Lublin, especially during the great fairs, where Jewish leaders as well as large masses of the people foregathered. There I used to express myself quite freely touching the shortcomings of the rabbis as well as of the laity, undeterred by any consideration or fear. This boldness, naturally enough, created for me numerous enemies who heaped slander upon my name and otherwise persecuted me. . . . Of course, I could have well avoided all this wrath and uproar were I but willing to be more restrained in my utterances, or were I more chary of my personal honor. But I had long resolved to place the honor of God above that of my own."<sup>7</sup> The leaders of the Council of the Three Lands,<sup>8</sup> however, recognized his true worth and encouraged his efforts. They assisted him in the publication of some of his works,<sup>9</sup> and established him as the head of the Lemberg Yeshiva, where he remained for many years, until, in 1604,<sup>10</sup> he was called to Prague to assume the office of Chief Rabbi, in which capacity he served for fourteen years.

Of his homiletical output, we possess six works, four of which

<sup>5</sup> עמודי שש, הקדמה, Amsterdam 1773.

<sup>6</sup> שפתי דעה, הקדמה, Warsaw 1882.

<sup>7</sup> הקדמה, עמודי שש.

<sup>8</sup> The province of Volhynia was not as yet included in the Council.— See Moritz Gruenwald: *Rabbi Salomo Ephraim Luntshitz*, p. 19, Frankfurt a.M. 1892.

<sup>9</sup> כלי יקר, הקדמה.

<sup>10</sup> עמודי שש, הקדמה.

had been published prior to his arrival in Prague. His עיר נבורים first appeared in 1580; his עוללות אפרים in 1590; his אורח לחיים in 1595; his כלי יקר in 1602; his שפתי דעת in 1610; and his עמודי שש in 1617. He frequently refers to a large homiletical work of his bearing the title of רבבות אפרים,<sup>11</sup> but this work never reached publication, and no trace is left of the manuscript. Gruenwald<sup>12</sup> surmises that it was destroyed, together with many important documents and records, in the great conflagration that devastated Prague in 1689.

## II

In the sermons of Ephraim Luntshitz we come upon a phenomenon as puzzling to the unbiased as it must be irritating to the prejudiced. Jewry of sixteenth-century Poland, constituting as complete an autonomy as Jews ever enjoyed in European countries, a veritable state within a state, presents us with a preacher of extraordinary power and artistic skill, whose works, in conception and execution, in profundity of thought and of feeling, in breadth of vision and depth of insight, in all the manifold reactions to the conditions and tendencies of contemporaneous life, bear close kinship to the choicest products of more enlightened lands. In fact, it is among the representative Jewish preachers of the Italian Renaissance that we shall find his compeers. True, he had drawn little, if any, from the luring wells of alien cultures;<sup>13</sup> but his mind impregnated with the best of his own culture, brought into being a species of homiletical literature, all the more notable because underived, and all the more precious because undiluted. Of course, his field of study, unlike that of most of his contemporaries in the land of his birth, was not exclusively restricted to the Bible and the Talmud. His sermons reveal a wide and intimate knowledge, even a

<sup>11</sup> הקדמה, כלי יקר; P. II, Ser. 16, p. 29b; Ser. 40, p. 59b; עוללות אפרים.

<sup>12</sup> *Rabbi Salomo Ephraim Luntshitz*, p. 38.

<sup>13</sup> At times he makes mention of some astronomical observations (עירא P. I, Ser. 5, p. 8a; איל p. 11b, Amsterdam 1770), and occasionally of medical prescriptions (כ"י, בראשית, p. 5b) as well as of sundry explanations of natural phenomena (איל, p. 13b; כ"י, נח, p. 8a), but there is no indication that these facts were obtained from other than Jewish sources.

critical understanding, of the works of the medieval Jewish philosophers and scientific commentators.<sup>14</sup> His frequent insistence that though the fundamentals of our faith rest on a valid tradition we are none the less obligated to probe their mysteries with our rational faculties,<sup>15</sup> and the further insistence that to study theology profitably one must be conversant with the physical sciences, mathematics, and astronomy,<sup>16</sup> may well argue more than a latitudinarian attitude on his part. And the lyrical quality of some portions of the Introductions to his works, as well as the fact that he was the author of three liturgical poems,<sup>17</sup> would seem to indicate a diversity of interest as well as of natural aptitude, in fields other than those carved out for him by the exigencies of his daily tasks.

The apostles of "Enlightenment," it would seem, in making servile obeisance to secular knowledge of foreign importation, have only succeeded in creating false standards of measurement whereby the real merits of men of exceptional ability and accomplishment are often obscured and sometimes obliterated because, forsooth, their powers ripened into fruitfulness under "ghetto" skies, unrelieved by atmospheric infiltrations from without. That increased freedom and power will flow into the most richly endowed spirit from a fresh accession of truth, however exotic in origin and inferior in quality, will be denied only by impervious obscurantists. But it is not at all certain, nay, it has been repeatedly disproved, that true greatness, whether of intellect

<sup>14</sup> The direct references and allusions are too numerous for citation. There is hardly a sermon in his עוללות אפרים but what affords unmistakable evidence of his having delved deep into our philosophical and critical literature. It will be of interest to note, however, that in a discourse on retribution, he adduces seven arguments in support of the reasonableness of the doctrine, each of which is derived from a different Jewish thinker: Maimonides, Ibn Ezra, Bahya, Halevi, Saadia, and Albo.—בחקותי, כ"י, p. 78c.

<sup>15</sup> ע"א, P. II, Ser. 3, p. 15b, Ser. 20, p. 33c, Ser. 25, p. 39a; P. IV, Ser. 5, p. 107a.

<sup>16</sup> ע"א, P. II, Ser. 41, p. 59d; P. III, Ser. 8, p. 75a.

<sup>17</sup> In commemoration of the tragic event that took place on February 15 (Adar 2), 1611, when an army descending from Passau invaded Prague, retiring only two years later, he composed the following three selihot: חולעת יעקב אל תראי (3) לך ה' הצדקה כי שמח בנפשנו (2) אלה אזכרה ואשפכה עלי נפשי (1). See Zunz: *Literaturgeschichte der synagogalen Poesie*, p. 421, Berlin 1865.

or spirit, must be surrounded and influenced by the conditions of a given civilization, must express itself in certain accepted forms, if it is to thrive and attain unto enduring worth. To the contrary, we know that all genius, of whatever sort and degree, like the harp of David in the rabbinic legend, when played upon even by the midnight breezes, will produce strains that may awaken the dawn. Surely, the earliest and sublimest preachers in Israel, the Hebrew prophets, drew little upon external sources for their time-transcending and world-embracing message. Those who forever prate of the "Spirit of the Ages," may find it profitable to ponder over the illuminating words in which Faust offers admonition to Wagner, the would-be preacher:

"Das Pergament, ist das der heil'ge Bronnen  
Woraus ein Trunk den Durst auf ewig stillt?  
Erquickung hast du nicht gewonnen,  
Wenn sie dir nicht aus eigener Seele quillt."<sup>18</sup>

In this sense, Ephraim Luntshitz may be regarded as a preacher of true originality, who did not "cook the scraps from others' fare," who, to rise to the source, employed no other assistance than what his inherited ideals and his own powers of interpretation afforded; whose own heart, as Goethe would have it, was eloquent. To be sure, he did not originate any startling truth; great popular preachers, who rise from the people and speak to the heart of the people in the language understood by the people, aim at a far less magnificent but even more precious quarry. They are the natural poets of the people, dreaming dreams and seeing visions such as the people could well claim as their very own even though they be not always conscious of their import and worth. In fact, to renew and strengthen that consciousness in the people, to purify and ennoble their impulses, to enlighten their minds and refine their spirits, to gather up the ordinary materials of life and make them glorious by the profounder interpretation put upon them,—this is, after all, the chief task of the earnest preacher. And this task, so clearly envisaged and so persistently pursued by Luntshitz, as we shall have occasion to see, called for no more extensive intellectual

<sup>18</sup> *Faust, Goethes Werke, Zweiter Band*, p. 280, Leipzig.



equipment than our own classical literature could, and did, supply. On the other hand, the native endowments requisite for the fulfilment of this august purpose, such as unfaltering conviction, penetrating vision, intrepid courage, moving power, and the whole range of spiritual refinements, Luntshitz, we shall presently discover, possessed in great abundance. For it was just these qualities, built into the very structure of his character, that enabled him to perceive, and impelled him to condemn, the grave abuses then so strongly intrenched in the school, in the synagogue, in the philanthropic agencies, in the entire organized life of the community. He came to grips with an intolerable order of things and raised his solitary voice against "the blind in the Jewish camp"<sup>19</sup> not out of general aesthetic considerations or in the interest of political and social preferment but solely from the highest religious motives. He apprehended that the mental and moral discipline of the Jew might become so vitiated by these impure and unseemly practices as to deaden his very soul. He therefore hastened to advocate with all the vigor at his command a number of vital changes in the educational and religious institutions of the people, which, had they been adopted by his contemporaries and carried forward by succeeding generations, might have forestalled the tragic schism in our ranks that occurred two centuries later. Such a power, such a personality, may indeed be moulded by external forces and influences; more often, however, especially when frustrated or ignored by the very surroundings amidst which it rises up, it issues from a deeper and more mysterious source, a source whence all originality commonly flows, the secret well-springs of the individual soul.

### III

Luntshitz, though widely known as a preacher of considerable merit, has been accorded scant attention by students of our homiletical literature, chiefly because his name, by the cruel logic of a just but limited estimate, has been almost exclusively associated with his best, his most profound and artistic work, his עוללות אפרים. That he was the author of five other volumes of

<sup>19</sup> העורים במחנה העברים ע"ש, p. 6a.

sermons and homilies, less compact in thought and trenchant in style but more replete with significant details for a comprehensive portrayal of the man, his aims and outlook, is a fact of which few seem to be cognizant. Yet the master craftsman in עוללות אפרים<sup>20</sup> is wellnigh eclipsed by the ardent reformer in עמודי שש<sup>21</sup>; the deft exegete in כלי יקר<sup>22</sup> shrinks in stature by the side of the passionate pleader in עיר גבורים<sup>23</sup>; and the prolific homilist in

<sup>20</sup> The נ"א comprises a total of eighty-four sermons, divided into four parts: the first of which, dealing with the nature and outlook of the spiritual personality, consists of six sermons; the second part, woven around the holy-days and festivals, consists of forty-nine sermons: fourteen for Passover, seven for Shabuoth, five for Succoth, twelve for Rosh Hashanah, three for Yom Kippur, four for the Sabbath day, two for Hanukkah, and two for Purim; the third part, intended for special occasions, consists of twenty-two sermons: eleven for weddings, nine for the initiation into the Abrahamic covenant, one for the ceremony attending the redemption of the first-born son, and one for the occasion marking the attainment of religious majority; the fourth part, dealing with such themes ■ Torah, Worship, Benevolence, consists of six sermons, the fifth being a series of homilies, ten in number, for funerals. Inserted in their appropriate places (pp. 78d-83a, 84b-94b), Pentateuchal texts from all the weekly portions, with their proper uses briefly indicated, are generously supplied, for the benefit of those who need material for sermons at weddings and at rites of circumcision. The volume concludes with ■ sermon for the Sabbath preceding Rosh Hashanah.

<sup>21</sup> The ש"ע, denoting the Pillars, made of marble as well as six in number, upon which the world rests: Torah, Worship, Benevolence, Justice, Truth, and Peace, is divided into twenty-four chapters, each of which is in reality ■ sermon on some aspect of these Pillars, excepting the twenty-fourth in which the Conclusions reached in the preceding discourses, the ethical and spiritual truths therein applied, are summarized in succinct form and with telling effect.

<sup>22</sup> The כ"י is a running commentary, in his usual homiletical style, to the entire Pentateuch. Because of its great popularity, it has been incorporated in the מקראות גדולות (Warsaw 1902), at the conclusion of each weekly portion.

<sup>23</sup> The עיר ג"י is composed of two parts, the first of which, comprising the larger portion of the volume, embraces ■ complete series of Sabbath sermons based on the weekly readings from the Pentateuch. The second part, entitled "Introductions and Portals," opens with a penetrating and scintillating Preface and is followed by two "Introductions" and two "Portals." Of the former, one deals with Self-Conquest and the other with the fundamentals of the religious life, such as Torah, Worship, and Benevolence. The "Portals" consists of two groups of discourses, one woven around the subject of Repentance and the other around the general theme of Ethical Qualities.

שפתי דעת<sup>24</sup> steals silently away at the determined approach of the inspired ethical guide in *אורח לחיים*.<sup>25</sup> In fact, if we view his works in the light of his own express convictions as to what must constitute the chief task and greatest opportunity of the consecrated preacher, we shall find that the *עו"א*, with all its intrinsic merits, falls short, in some important respects, of the standard he had set for himself and repeatedly urged upon others. For Luntshitz insisted that the test of a sermon did not lie in the degree of its own perfection but in the measure of its influence on human life. "I have written a few books, and my aim in all of them has been not to fascinate with novel interpretations but to edify with ethical instruction such as my generation stood in greatest need of."<sup>26</sup> The homiletical framework of the sermon he therefore regards not as an end in itself but as the means to a higher end, always subordinate in nature and importance to the spiritual stimulation therein provided.<sup>27</sup> To Luntshitz preaching in the synagogue can have no other function to perform than that of justifying God's ways to man,<sup>28</sup> of demonstrating our great love for men by reprobating everyone of their evil deeds,<sup>29</sup> of removing all obstacles from our path by the softening of petrified hearts with words of castigation.<sup>30</sup> To combat all evil, to inject into the disturbing elements of the community an

<sup>24</sup> The *ש"ד*, designated by the author as a companion volume to the *כ"י*, contains three hundred and seventy-four individual homilies on all the weekly lessons from the Pentateuch. They represent, we are informed, carefully selected excerpts from the regular Sabbath sermons preached in Prague in the course of three years, 1607-1609.—See *הקדמה*.

<sup>25</sup> The *א"ל* opens with an Introduction couched in his best style, in which he surveys the Jewish scene and finds much to lament. This is followed by "The Foundation of Faith," a clear statement of what he deems to be the very essence of the Torah. The body of the work consists of two very elaborate sermons, one intended for the penitential season and the other for the Feast of Passover. In structure as well as in content, these sermons, despite their unconscionable length, rise to very high levels, and must be classed among the best of his efforts.

<sup>26</sup> *הקדמה*, ע"ש.

<sup>27</sup> *הקדמה*, *א"ל*.

<sup>28</sup> *עו"א*, P. II, Ser. 43, p. 61d.

<sup>29</sup> *דברים*, *כ"י*, p. 98c.

<sup>30</sup> *הקדמה*, *ש"ד*.

ingredient that will have the power to cure them of their perverseness—this he deems to be the most serious task confronting the true preacher.<sup>31</sup> Guaged by this estimate of the sermon's worth, the עו"א neither embodies the ideal pattern of the preacher's art nor exhibits to any appreciable extent the fiery temper of the moral crusader.

It is always difficult to form a complete estimate of an author's achievement on the basis of one of his works, even though it be the one best calculated to reveal the full force of his talent. In the case of Luntshitz, such a proceeding would be even dangerous because grossly misleading. For in character and capacity he represents a strange composite of two essentially different sets of attributes. On the intellectual plane, we discover in him the calm, patient, erudite, and painstaking craftsman, whose vast store of homiletical material, coupled with an amazing fertility of invention, could not but win the admiration and homage of his own and subsequent generations. On the other hand, on the ethical plane, we encounter in him the impatient, impetuous, resolute and unyielding moral reformer, whose fearless courage often defied, but seldom cowed, the heedless multitudes, though it never failed to embitter his own spirit. In most instances, as regards the temper of his sermons, either the one mood or the other predominates. In such works as the כ"י and the ש"ד, for instance, the subdued homilist prevails; in all the Introductions to his collected sermons, the staunch but tempestuous reformer sways the sceptre. On occasion, as in the א"ל and in the ע"ש he succeeds in happily combining the two, if not always in one composition at least in one and the same volume, wherein the practical applications of the respective sermons, plucked from their original stems, are replanted, so to speak, on the outskirts of the volume; and it is at such times that we are permitted to behold the preacher as he spoke his message to his people.

Thus, while when measured by the standard of sheer homiletical force the judgment of posterity in favor of the superior excellence of the עו"א can be well sustained, as expressions of his

הקדמה, א"ל 31

peculiar pulpit technique and of his personal reactions to the conditions and practices prevalent in his day, however, others of his works, such as the *אורל* and the *ש"ע* and to a limited extent even his *ע"ג*, must lay prior claim to our attention and careful study. For, as we have good reason to believe, it is in the above, rather than in his purely homiletical works, that the message of the preacher as actually given in the pulpit is best preserved. If in his published works so many of the sermons embrace little more than the homiletical framework, it is because he would rather be read in part than totally ignored.<sup>32</sup> Words of exhortation, he very early discovered, awakened a contrary response in many people. They despised the admonition of the preacher, and greeted his person with contumely. Novel and skilful interpretations alone, even when these did violence to the true meaning of the text, evoked a favorable response. And so, preachers bent upon being popular, had long abandoned the practice of scanning and, when necessary, condemning the habits of the people, indulging instead in the vain art of juggling with texts. "But such a method of preaching goes counter to my very nature. It can never become my own."<sup>33</sup> Accordingly, to minister to the needs of all the people, as well as to save his labors from possible oblivion, he is willing to yield to the opponents of his method to this limited extent: he will divide the book in question into two parts, in the first of which homiletical discourses on the weekly lessons from the Pentateuch will be given, while in the other ethical and spiritual truths in their application to daily conduct will be discussed.<sup>34</sup> It is quite apparent that no such dichotomy marked the sermons in their original state; and it is equally evident that only in such compositions of his as unite within themselves these two primary elements, the homily and the monition, we shall be sure to hear authentic echoes of the preacher's voice.

Indeed, if we choose to concentrate our attention on the homiletical discourses of Luntshitz, exclusively, as many seem to have done, we shall fail to comprehend the full nature of his

<sup>32</sup> הקדמה ראשונה, ע"ג.

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*; see also הקדמה to second part, p. 4d.



powers, and thus be unable to evaluate all the elements of permanence in his contribution. For the key to his character as a preacher, as well as to the secret of his undoubted influence on the course of Jewish preaching in later centuries, will be found in his theory of preaching, as expounded by him on diverse occasions and as exemplified in those of his sermons in which his pulpit utterances seem to be most faithfully transcribed. "The sole aim in all my literary endeavors," he repeatedly protests, "whether in the written or spoken word, has always been to expose the godless men."<sup>35</sup> And Israel's leaders, he avers, have no more urgent duty to perform than, when speaking in public, to excoriate sin and rebuke the sinner.<sup>36</sup> There is little to be gained from the all too common practice of toying with texts and often distorting them out of their original shape, unless it be to magnify the person of the preacher.<sup>37</sup> The homily is the mere framework of the picture; its elaboration is justified only if it helps to draw the attention of the audience to the picture itself. And in an age when homiletical ingenuity alone is admired in the preacher, and his honest message, directly and specifically applied, is spurned and despised by the multitude, it is naturally good pedagogy to blend the two into one palatable whole.<sup>38</sup> Common prudence also dictates that the preacher observe the proprieties whilst he performs his duty, that he do not, for example, single out any one individual in the congregation for special censure. The practised preacher will have no difficulty in so framing his strictures as to leave no doubt in the mind of the individual offender as to the real target of the attack, all the while the congregation at large is kept in the dark as to his identity.<sup>39</sup> Nor will the wise leader forever dwell on the shortcomings of the people. He will welcome every opportunity to speak words of approval; to commend them for their virtues as well as to condemn them for their vices. He will endeavor to see the good, as well as the evil, that is in men.<sup>40</sup> But, withal, he will never compromise with sin. He will

<sup>35</sup> הקדמה, ש"ד.

<sup>36</sup> דרוש לפסח, או"ל, p. 24a.

<sup>37</sup> *Ibid.*; עו"א, P. II, Ser. 31, p. 47b.

<sup>38</sup> *Ibid.*, p. 19b.

<sup>39</sup> דברים, ע"ג, p. 112a; וילך, p. 90a, דברים, כ"י.

<sup>40</sup> דברים, ע"ג, p. 1b.

neither ignore it nor condone it. Like the prophet of old, he will cry aloud, and spare not. He will declare unto his people their transgression, even if mockery and personal injury be his only guerdon.<sup>41</sup> For the leader, who is a true shepherd to his people, will carefully guide their steps in the path of duty, away from all those iniquities which, like beasts of prey, threaten to devour them.<sup>42</sup> He will also strive to preserve peace and unity in the midst of the flock; and by what better means than by candid criticism and solemn admonition can true unity be achieved in Israel?<sup>43</sup>

But prophetic preaching, so urgently needed and so eminently worth while, is unfortunately beset by grave limitations. For one thing, the people in large numbers, intoxicated with a life of sense, forever pursuing honor, power, wealth, pleasure, will suffer no interruption in their mad revelry even though the house be on fire.<sup>44</sup> Moreover, they resent the attempt of the preacher to establish the truth that there is some vital connection between character and condition, between conduct and circumstance, and that Israel's redemption has been all too long delayed because of the evil-doers in our midst. They would rather not face such unwelcome facts. Besides, in their pride they actually deem themselves free from all faults and sins, in very truth paragons of virtue.<sup>45</sup> And so, they are bent on muzzling their leaders. The power of election is in their hands. They can always find men of more tractable disposition. They purposely elect their rabbi for a short term so that, dominated by the motive of fear, he may tamely submit to their wishes.<sup>46</sup> And should the courageous leader dare to expose the follies and offences of the people, ignoring their intimidations and successfully defying their evident power, he will soon discover that even though firmly entrenched in his position he has been worsted in the struggle none the less. For his opponents, numerous and unprincipled, will be sure to

<sup>41</sup> דרוש לראש השנה, א"ל, p. 11a.

<sup>42</sup> פנחס, ע"ג, p. 32b.

<sup>43</sup> ע"א, P. II, Ser. 36, p. 56c.

<sup>44</sup> הקדמה, ש"ד.

<sup>45</sup> דרוש לפסח, א"ל, p. 19b.

<sup>46</sup> הקדמה, ע"א, p. 35b; אמור, p. 51a, מקץ, ע"ג, p. 104d; שופטים, הקדמה, כ"י.

invent and rehearse scandalous stories most damaging to his character, stories which once widely circulated must sooner or later neutralize the whole effect of his preaching.<sup>47</sup>

But there is another serious limitation to the prophetic method of preaching, one that is conditioned by the character and outlook of the preacher himself. In many instances, our preaching is ineffective because excessive timidity is perched in the pulpit. So many rabbis are unwilling to raise their voices in vehement protest against the iniquities of their time lest in so doing they jeopardize the chance of promotion to the more prominent positions of the land.<sup>48</sup> Others, not quite so ambitious in their designs, studiously refrain from combatting the forces of evil lest they give offence and imperil their popularity with the people. They will rather protect their own honor than promote God's glory.<sup>49</sup> But what militates most against the effectiveness of our preaching is the melancholy fact that so many who assume the office of preacher are spiritually unfit for the task. The truths they preach do not well up from their own souls. They speak with the lips, but not from the heart. When they touch anything unclean it remains unholy, because the holy flesh they bear is only in the skirt of their garment.<sup>50</sup> The people soon learn to distrust the man who has no real conviction toward the truths he teaches. And not infrequently the very conduct of these so-called teachers belies their own preachment. They, for example, who are commissioned to propagate peace in all the manifold relations of life are often the very cause of whatever divisiveness there may exist in the community.<sup>51</sup> They who teach the virtue of humility and humbleness of spirit often deal arrogantly and contemptuously with those less distinguished in the mastery of the Torah.<sup>52</sup> They who have received the mandate: Ye shall fear no man! teach their lips to enunciate words of servile flattery!<sup>53</sup>

<sup>47</sup> דרוש לר"ה, א"ל, p. 4a.

<sup>48</sup> נשא, ע"ג, p. 5b.

<sup>49</sup> דרוש לפסח, א"ל, p. 23b; דברים, ע"ג, p. 1b.

<sup>50</sup> עמוד התורה, ע"ש, p. 3b.

<sup>51</sup> תרומה, ע"ג, p. 30a.

<sup>52</sup> עמוד השלום, ע"ש, p. 20c.

<sup>53</sup> ע"א, P. III, Ser. 13, p. 85d

However much, then, they may strive to inculcate in others, by word of mouth, a sense of duty and responsibility, unless they themselves are permeated by such a sense, unless their own lives yield an abundance of the fruit they would fain cultivate in others, of what avail are all their efforts?<sup>54</sup>

And many are the evils in the Jewish camp which the preacher earnestly devoted to his task will surely labor to remove. All communities present the same disheartening spectacle: the most meticulous observance of trifling regulations and the grossest neglect of the fundamental practices of the religious life.<sup>55</sup> Envy and hate; slander and deceit; neglect, or improper study, of the Torah; hypocrisy and avarice; vanity and lust and arrogance; prayerlessness and perjury; frivolity and falsehood—these forever stare us in the face.<sup>56</sup> And the pitiful thing is that the people do not even seem to be aware of the flagrant character of these cardinal sins!<sup>57</sup> We have yet to learn that anyone ever felt penitent and prayed for forgiveness because he had spoken ill of his neighbor.<sup>58</sup> Why, such ethical flaws are even viewed as laudable qualities, indispensable to success in life. In the eyes of the populace, insincerity and hypocrisy, for example, are the distinguishing marks of the experienced and the worldly-wise. The honest soul, free from flattery and deceit, is looked upon as a simpleton, totally lacking in experience and therefore unfit for any worthy cooperative endeavor.<sup>59</sup> And should one deplore the widespread distortion of the truth and venture to condemn publicly the vicious habits of the false and the faithless, whose vile deceptions are not restricted to the social sphere but extend into the field of trade and commerce, he is politely reminded that these are the ways of the world and that it is foolish, because futile, to protest.<sup>60</sup> Thus the floodgates of sycophancy and slander are left wide open, threatening to engulf the upright and the

<sup>54</sup> ואחחנן, ש"ד, p. 146.

<sup>55</sup> ויקרא, ש"ד, p. 6.

<sup>56</sup> *Ibid.*

<sup>57</sup> ע"א, P. II, Ser. 34, p. 51b.

<sup>58</sup> דרוש לר"ה, א"ל, p. 13a.

<sup>59</sup> ע"א, P. II, Ser. 34, p. 53d; ע"ש, א"מ, p. 18b.

<sup>60</sup> א"מ, ע"ש, p. 18a.

pious whose humility and innate modesty hold in check even the very instinct for self-defence.<sup>61</sup> Of course, the motive for this unrestrained defamation of other lives is not far to seek. Evil-speaking ministers to self-pride. It is difficult to raise absolutely one's mental and moral stature. But it is easy to raise it relatively, that is, by reducing the stature of other people alongside of whom one stands, thus giving the appearance of self-elevation.<sup>62</sup> But whatever the motive, the result is deplorable. By overlooking such vicious practices as natural or condoning them as venial, we put a premium on false pretence and malicious detraction. Men unworthy of honor and trust thus often rise to positions of power and influence, while those of spotless character, who will not stoop to dissimulation and deceit, are condemned to lives of obscurity and ineffectiveness.<sup>63</sup>

But in addition to a lamentable lack of appreciation of the finer qualities of character, there is a hopeless confusion as to the value of life itself. Most men live as though they believed that life existed for things. Thus life is lived on a low plane. Those of our members who constitute the backbone of our congregations are mostly merchants who are deeply engrossed in the business of gathering profits, and whose standard of value, even in matters pertaining to holy things, is none other than the coin of the realm.<sup>64</sup> Under such circumstances, it is quite inevitable that the well-to-do, eager to impress their neighbors with their power

<sup>61</sup> מצורע, ע"י, p. 21; ע"א, P. III, Ser. 2, p. 67d.—He cites the specific case of a prominent family upon whose members the stigma of bastardy had been placed by the scandal-mongers of the community, against which infamous fabrication only his teacher Solomon Luria dared to raise his voice.—י"ם שלמה, בבא קמא, Chap. 8, p. 115b, Prague 1616. See Gruenwald, p. 15, note 10.

<sup>62</sup> מצורע, ש"ד, p. 14.

<sup>63</sup> עמוד התורה, ע"ש, p. 5a—In this connection, it may be of interest also to refer to the severe condemnation he levels at the common practice of appointing Dayanim not because of their fitness for this responsible position but because they happen to be related to influential members of the community. Often the men so selected lack the moral character and the judicial temper of the true judge in Israel. In fact, they view the office not as an opportunity for joyful service but rather, under the prevailing fee-system, as a source of personal profit, for the possession of which even the rich are eager to bid high.—ע"ש, p. 16b; כ"י, p. 104c.

<sup>64</sup> הקדמה, א"ל, p. 2b.



and importance, should endeavor to live on a scale unjustified even by their abundant means. They will don costly garments and make their abodes amid sumptuous surroundings, thus inflaming the envy of the non-Jew and imperilling the very security of their people.<sup>65</sup> Those in moderate circumstances, hankering after the luxuries of life, are perpetually scrambling for ever-increasing riches, an enterprise deservedly reputed to be the most fertile single source of evil in the world.<sup>66</sup> For aside from the fact that this ceaseless race for worldly possessions, enlisting participants of unequal equipment and endurance, results inevitably in the concentration of too much wealth in the hands of the few, an evil much to be deplored,<sup>67</sup> and aside from the further fact that in the process of accumulation men often forget to exercise the principle of justice in the conduct of their business affairs,<sup>68</sup> or they engage in such lucrative enterprises as money-lending which while legitimate as a business cannot but prove injurious to one's religious outlook,<sup>69</sup> there is this gravest of all evils to be envisaged: that the ceaseless struggle for the possession of the superfluities of material existence, in which life itself is made subordinate to the acquisition of things, must eventually degrade and debauch the human soul, transforming free men into abject slaves.<sup>70</sup>

Of course, the possession of some of this world's goods is imperative and essential. Money is necessary and useful. But one must learn to hold it at a safe distance. It is comparable, in this respect, to fire: one can barely do without it, yet one does well not to get too close to it.<sup>71</sup> And surely there is no rational

<sup>65</sup> דברים, כ"י, p. 2b.

<sup>66</sup> ע"א, P. II, Ser. 6, p. 18c, Ser. 36, p. 56b.

<sup>67</sup> *Ibid.*, Ser. 6, p. 18d.

<sup>68</sup> דברים, כ"י, p. 107a.

<sup>69</sup> ע"א, P. II, Ser. 24, p. 37a.—Luntshitz advances here the novel thought that while to derive one's income, to the extent of one's actual needs, from interest on secured loans is quite permissible, it may none the less be attended by serious diminution in one's faith in God, inasmuch as the dealer in such loans, confidently relying on the value of the collateral deposited, is apt to leave God out of the reckoning altogether.

<sup>70</sup> א"ל, דרוש לפסח, p. 27a.

<sup>71</sup> ע"א, P. II, Ser. 8, p. 21d.

justification for this mad pursuit after the material things of the world, a pursuit that absorbs the interest and energy of multitudes of our people. The contention that the surplus of the rich ministers to the needs of the poor can hardly be sustained by the actual facts of experience. The rich never give as much as they should.<sup>72</sup> In most instances they are too close-fisted to heed the cry of the poor; and when they do respond to some pitiful appeal they invariably advertise their generosity, thus revealing the true motive of their beneficence.<sup>73</sup> Yet they will squander fortunes on gifts to men in power, because power is something they appreciate and truly hunger for.<sup>74</sup> What they give to the poor is often only what they cannot use for themselves—a few odd dishes and cups, cast-off things no longer serviceable.<sup>75</sup> Some of them, about to answer the call of death, yield to the monition of impending gloom and bequeath to charity some of their hoarded treasures; but to surrender to others what one can no longer enjoy oneself is rather an act of despair than of conscience.<sup>76</sup> The customary defence of the avarice of the rich, that it springs from a natural and laudable solicitude for the welfare of their progeny, would be quite amusing if it were not so shameful.<sup>77</sup>

The simple fact is that we are interested only in the things of immediate benefit to us, money, honor, power, forgetting that in all such matters the victorious are always the vanquished.<sup>78</sup> It may be true, of course, that conditions of life in the diaspora are in no small measure responsible for the want of spirituality in our character and outlook,<sup>79</sup> but there can be no gainsaying the truth that as long as the passion for wealth and luxury and pleasure dominates our lives, as long as pride and jealousy and strife divide our ranks, the redemption of Israel must be indefinitely delayed.<sup>80</sup>

<sup>72</sup> ע"ש, p. 13a.

<sup>73</sup> הקדמה, א"ל, p. 2b.

<sup>74</sup> ע"י, קרה, p. 22a.

<sup>75</sup> ע"ש, p. 12b.

<sup>76</sup> פתיחה שניה, ע"י, p. 25b.

<sup>77</sup> חצא, כ"י, p. 107a.

<sup>78</sup> ע"ש, p. 6a.

<sup>79</sup> א"ל, דרוש לפסח, p. 29b.

<sup>80</sup> ע"א, P. II, Ser. 7, p. 21b; כ"י, בחקותי, p. 79a.

How, then, shall we bring about the spiritual regeneration of our people? How shall we make religion a reality in their lives? Surely, Judaism in its essential elements is equal to the task. For what is the essence of Judaism, the foundation of our faith? Is it not love of God and love of man inextricably intertwined? And if men rush from mart to mart to store up more of this world's goods than they can possibly use, if they neglect the things of the spirit and have no love for their brother in their hearts, is it not because we have failed to stress the cardinal principles of our faith?<sup>81</sup> Israel's Torah may well be likened to a fruit-bearing tree. There are the roots, the trunk and the branches; and there are the leaves and the fruit. The former are the permanent parts of the tree; the latter change from year to year. Similarly, the traditional rules and reasons and interpretations are time-conditioned and subject to change; while the Torah itself, the tree of life, is eternal, flourishing in undiminished vitality as when first planted on Sinai's height.<sup>82</sup> Now, in this our permanent possession we discover two distinct classes of principles and practices: those that aim to safeguard the physical wellbeing of the individual and strengthen the material basis and structure of society, and those whose value for our terrestrial existence may not be clear but whose constant and subtle influence on our spiritual nature is quite unmistakable.<sup>83</sup> But in either of these groups of fundamental laws of conduct, the central figure, so to speak, the focus toward which they all converge, is God.<sup>84</sup> All the numerous injunctions in the Torah have but one end in view: to bring us to a clearer and fuller realization of God's presence in the world.<sup>85</sup> We are indeed fortunate in that we do not have to depend on our reason, never wholly exempt from error, for the evidences of God's existence and power.<sup>86</sup> The Torah provides us with a faithful record of God's operations in the universe and in the life of man. We are equally fortunate

<sup>81</sup> אר"ל, הקדמה, p. 3b.

<sup>82</sup> תרומה, ע"י, p. 30a.

<sup>83</sup> *Ibid.*, עקב, p. 9a.

<sup>84</sup> ער"א, P. II, Ser. 31, p. 47a.

<sup>85</sup> *Ibid.*, P. III, Ser. 13, p. 90a.

<sup>86</sup> *Ibid.*, P. II, Ser. 40, p. 59a.

in that, by means of the Torah, we can direct our steps towards God's dwelling-place without having to abandon the necessary occupations and interests of physical life.<sup>87</sup> For in Judaism the patently secular when sanctified by a spirit of devotion to God becomes unalterably sacred. The ordinary details of physical life need but be sublimated by a higher purpose to become vested with spiritual significance. Let a man feed his body prompted by the consciousness that only thus can he acquire the strength wherewith to do God's work in the world, and the purely animal act rises to the level of the holy.<sup>88</sup> Herein, in fact, lies the main difference between the materialist and the spiritually-minded: the former never gets beyond the deed done, while the latter in all he does never loses sight of the ultimate purpose of which the bare deed is both the natural antecedent and the sure promise.<sup>89</sup> The material preoccupations of man, like dew-drops glistening in the grass, rise heavenward when the sun of a higher purpose pours its rays upon them.<sup>90</sup> Hence, only what is of intrinsic worth and capable of spiritualization should experience unfailing growth, steady increase, constant ascent, while things of inferior quality and promise should be held immobile, circumscribed, limited in size and in appeal.<sup>91</sup> And it is by holding in check impulses and cravings unrelated and unhelpful to the progress of the soul, or, better still, by harnessing the forces of our physical nature to the tasks and purposes of the spirit, that we can hope to see developed in us such moral sensitiveness, such spiritual insight, as will enable us to apprehend and approach the Divine.<sup>92</sup> Thus, we need but fix our attention on the high spiritual teachings of the moulders of our faith to realize the imperative duty of turning away from the seductive pleasures, the degrading pursuits and practices, of the unhallowed life.<sup>93</sup>

<sup>87</sup> *Ibid.*, P. III, Ser. 21, p. 99d.

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*, P. III, Ser. 13, p. 93b.

<sup>90</sup> דרוש לר"ה, p. 13b.

<sup>91</sup> ע"א, P. II, Ser. 27, p. 41d.

<sup>92</sup> א"ל, דרוש לר"ה, p. 8a; ב"י, p. 41c.

<sup>93</sup> שאו מרום עיניכם אל היודעים ואל האבות ואל חדרשו.—פתיחות ושערים, ע"ג.  
אל הידעונים ואל האבות.

An intelligent understanding of the Torah alone, a clear comprehension of its vital principles, could rescue this generation from the many evils that corrode its inner life. But, and here is the rub, ours is a generation that has no real love for Torah.<sup>94</sup> The acquisitive instinct is too strong with us. It crowds out all other interests from our hearts.<sup>95</sup> The rich, whose creature-comforts and abundant leisure should form the most favorable conditions for a life of study, seem unable to shake themselves free of this their master passion, a passion that knows no limits and recognizes no superior.<sup>96</sup> And those who are steadily engaged in the study of Torah are more often impelled thereto by some selfish motive such as love of honor and of power. Some even regard it as a desirable means of livelihood. Few bring to it a devotion that is pure and deep.<sup>97</sup> Hence their very bearing in the community is one that accords but ill with the nature and dignity of their vocation. They insist on exacting all the honor due them as custodians of the law, concealing their egregious vanity behind the feeble allegation that only thus could they compel respect for the Torah itself.<sup>98</sup> They forget, though, that the heights of learning, even as those of piety, can be scaled only by those who follow the path of humility.<sup>99</sup> And it is this, their utter lack of humility, their false pride and vanity, that vitiates their very learning. Thirsting not for knowledge but for admiration, they spend their time in futile discussions of ingenious and far-fetched interpretations of the law, in the hope that their sheer cleverness will win for them the plaudits of the less expert dialecticians.<sup>100</sup> Thus, hair-splitting is mistaken for brilliant scholarship, and the words of the living God are hurled into the dark abyss of primeval chaos.<sup>101</sup> And the use of this reprehensible methods of study has become so widespread, so strongly en-

<sup>94</sup> דרוש לר"ה, א"ל, p. 4a.

<sup>95</sup> ע"א, P. I, Ser. 1, p. 4c.

<sup>96</sup> עמוד התורה, ע"ש, p. 1c.

<sup>97</sup> א"ל, p. 1a.

<sup>98</sup> ע"ש, p. 5a.

<sup>99</sup> *Ibid.*, p. 6a.

<sup>100</sup> א"ל, הקדמה, p. 2b; דרוש לפסח, p. 28a.

<sup>101</sup> *Ibid.*, p. 27a.



trenched in the schools, that few busy themselves with the primary sources, the Bible and the Mishnah, and fewer still, even of those who admit the futility and viciousness of the entire pursuit, show any inclination to abandon a practice so prevalent and in such great popular favor.<sup>102</sup>

It is quite evident that our whole educational system beginning with the elementary schools, must undergo a complete transformation if the ideals of the spirit enshrined in the Torah are ever to control and direct our daily conduct. Men of true learning will not rest content with their own rich acquisitions. They will endeavor to diffuse the light of the Torah among those dwelling in darkness.<sup>103</sup> And naturally they will begin with the very young whose minds are plastic and retentive, and who are as amenable to words of truth and reason as they are susceptible to influences of evil.<sup>104</sup> This natural receptivity of youth they will exploit in such a way as will not only strengthen the newly-awakened mental faculties of the child but will also implant in his soul a keen appreciation of, and a permanent attachment for, the essential principles of right-living. With this latter end in view, they will strive to impart to the child a thorough knowledge of the Pentateuch, from the beginning to the end, and not merely a few verses from each weekly portion; stressing in their instruction the ethical and spiritual significance of each passage read and not solely the linguistic medium.<sup>105</sup> It is surely more important that the child should learn to revere God and the laws of God than that he should know the meaning of many words. When the young pupil has mastered the Pentateuch, his attention should be directed to the Mishnah, that is, to those parts of it which treat of subjects pertaining to the conduct of everyday life. If possessed of exceptional ability, he may then be allowed to proceed to the study of the Talmud. The average boy, however, will do well to continue with the further study of the Bible, all the while he is being grounded in the ethical life and in the ways of true piety.<sup>106</sup>

<sup>102</sup> *Ibid.*

<sup>103</sup> ע"א, P. III, Ser. 8, p. 74c.

<sup>104</sup> מצורע, ש"ד, p. 29.

<sup>105</sup> ע"ש, p. 23a; בחקותי, ש"ד, p. 58.

<sup>106</sup> *Ibid.*

A radical revision in the prevailing methods of teaching, then, is the most urgent need of our time, which Israel's leaders cannot afford to ignore.<sup>107</sup> If our children are unruly, boisterous, ill-mannered, disrespectful, and rebellious, it is because they have been trained by "hirelings" who are more interested in the emolument received than in the instruction given.<sup>108</sup> "In our generation, the 'Pillar of the Torah' is well-nigh tottering. Our whole system of education, whether we view it in relation to the instruction designed for children or to that for adults, is deplorably defective. As regards the education of the young, at a very early age the child is placed in the custody of a professional teacher who, by way of grounding him in the scriptures, reads with him a few verses from the weekly portion of the Pentateuch, dwelling on the signification of the words or sentences read without attempting to indicate their significance in the thought-content of the whole. Even when a complete section is studied, the logical sequence of its ideas remains untraced. And after this preliminary training the child is speedily initiated into the study of the Mishnah or the Talmud, even though he has not as yet been made to know either the nature of God or the requirements of His law. With no knowledge of what it means to love God, to fear God, to hearken to the voice of God, of what benefit could the study of the Mishnah or Talmud be to him? His scant familiarity with the Pentateuch soon fades from his memory. Indeed, since the Pentateuchal lesson taught him had more to do with language than with content, the meaning of some Hebrew words was all he could retain. To be frank, one is quite puzzled to know why the Pentateuch should be studied at all, if the chief objective is a knowledge of the Hebrew language? Why, in the study of foreign languages, one would not think of using such a text-book as the Pentateuch! Surely, we do not mean to confound the study of the rudiments of Hebrew with the study of Torah! And when the child is thus prematurely ushered into the study of the Talmud, what are the tractates laid before him? Why, mostly those that have no bearing on his daily life, such as Erubin and Hulin! From the study of such tractates, the child

<sup>107</sup> *Ibid.*, p. 23d.

<sup>108</sup> *Ibid.*

carries away no lasting impression, be it that of a religious or an ethical character, having nothing to show for his pains but a bare familiarity with the literary style of the Talmud. Of course, parental pride thrives on this method, as it enables a father to exhibit the mental prowess of his budding son. One so tender in years and yet robust enough to wrestle with a difficult legal question! Yea, subtle enough to observe veiled distinctions and invent inconceivable analogies! And when this pupil grows older and has the good fortune to join a school of higher learning, what studies absorb his interest and energy there? Why, none other than those which deal with the ingenious but worthless discussions of an unsound dialectic! It is amazing that a mature mind presiding over such a school should deliberately distort the accepted interpretation of a Talmudic passage without even discerning the gross self-deception involved in the process! Does this form of intellectual gymnastics, so wasteful of valuable time and productive of nothing more than self-glorification, conform to what we know to be the will of God?"<sup>109</sup>

But there is another and perhaps more effective means of overcoming the spiritual inertia and deadness of an external conformity. To be sure, a knowledge of the essence of Judaism, a clear comprehension of the true inwardness of our religious beliefs and practices, will tend to direct the flow of our energies into channels of pure and exalted living. Yet nothing is so well adapted to elevate and refine the human spirit, even as nothing so completely engages and sanctifies the physical senses, as the ready submission to the will of God in public prayer.<sup>110</sup> It is for this reason that we designate worship as one of the pillars that uphold the world. And, indeed, prayer properly conceived, is the most potent spiritual exercise open to man. For while in our liturgy the entreaty for material blessings is as frequent as that for spiritual enrichment, the underlying sense of all our prayers is that not our will but God's will be done.<sup>111</sup> Besides, the enlightened worshipper never fails to distinguish between the

<sup>109</sup> ע"ש עמוד התורה, p. 6d.

<sup>110</sup> ע"א P. IV, Ser. 2, p. 103; ע"ש, עבודה, p. 7a.

<sup>111</sup> ואתחנן, p. 98d.

prayers of aspiration which are essential and the prayers of petition which are only of secondary importance.<sup>112</sup>

But, and this must never be lost sight of, the efficacy of our prayers, whatever be their tenor, and the impetus divine worship gives to more intense spiritual activity, are conditioned by *Kawanah*, the complete concentration of the interests and powers of the worshipper on the act of devotion. When this, for one reason or another, is absent, prayer ceases to have any spiritual significance; it degenerates into the vain and meaningless chirpings of the bird.<sup>113</sup> And it is just here where the Synagogue as a house of prayer reveals its pathetic impotence. Divine worship as conducted in our synagogues fails to bear any fruitful spiritual results because it is a worship little calculated to create and sustain the prayerful mood. Aside from the fact that the majority of the worshippers, insofar as they come to the synagogue either unequipped with a knowledge of the Hebrew language or so engrossed in other thoughts that the spirit of devotion never takes full possession of their minds, are altogether unprepared for the task in hand,<sup>114</sup> the service itself is beset by so many disorders and distractions as to make concentrated devotion extremely difficult if at all possible. That pernicious habit, countenanced in most synagogues, of punctuating the prayers with random conversation and heated discussions of a personal character, turns the Lord's house into a disreputable resort.<sup>115</sup> The gross indecorum that attends our synagogal worship has indeed made us the laughing-stock of the non-Jewish world.<sup>116</sup> What with the ceaseless babble humming on all sides, what with the din of cantankerous disputes rising above the medley of voices intoning the set prayers, and what with the habitual intrusion of the irrelevant announcements of the market-place into the very heart of the service, public worship as practiced in the synagogue is as little inspirational as the worshippers are reverential.<sup>117</sup> Prayer has thus become with us a matter of routine,

<sup>112</sup> ע"א, P. IV, Ser. 2, p. 103d.

<sup>113</sup> ע"ש, עבודה, p. 8a.

<sup>114</sup> *Ibid.*, 9a.

<sup>115</sup> ע"א, P. IV, Ser. 2, p. 103d.

<sup>116</sup> ע"ש, עבודה, p. 8c.

<sup>117</sup> *Ibid.*

the mere utterance of words that do not well up from the heart.<sup>118</sup> In fact, few of the so-called worshippers have even the patience to tarry in the synagogue all through the service. At a convenient pause, such as is afforded by the reading of the scriptural lesson, they make their hasty departure to parade through the streets of the city.<sup>119</sup> And of those who remain some chant the prayers with so much ostentation and pride, often anticipating the familiar intonations of the cantor so as to attract attention to themselves, that their praying can hold little spiritual significance for them.<sup>120</sup> Of course, in this their ostentatious display they are only following the example set for them by the "messenger of the congregation" himself, the cantor who blares his trumpeting voice for the sake of making a good impression and receiving a more handsome reward for the effort, altogether heedless of the meaning of the words he chants and unconcerned about the proper emotional state of the true worshipper.<sup>121</sup>

"Since in our time the service of the heart, prayer, has taken the place of the service of the altar, sacrifice, the large bulk of the people, ignorant of the Hebrew language, can do no more than utter unintelligible sounds, chirp and mutter like birds. Can this be what we mean by the service of the heart? . . . This state of affairs, of course, rises out of the fact that in their childhood they were trained to translate solitary words of the Bible without ever learning to group these words into a unified thought. Had they been taught to render Biblical verses intelligently they no doubt would have mastered the language in which our liturgy is couched. It should be added, however, that to the great mass of the people, even to those unhampered by linguistic difficulties, devotion in prayer is quite unknown. Their minds are forever fixed on their business affairs even during the hour of prayer. So engrossed are they in worldly matters that they cannot muster enough will-power to shake themselves free of the obsession even for the brief period of worship. Besides, some indulge in vain reveries, and others even busy themselves with

<sup>118</sup> דרוש לה"ה, p. 16b.

<sup>119</sup> עבודה, ע"ש, p. 8a.

<sup>120</sup> עו"א, P. IV, Ser. 2, p. 103c.

<sup>121</sup> אור"ל, הקדמה, p. 2b; ע"ש, עבודה, p. 8a, 9a.



all sorts of evil thoughts while thus engaged in prayer. Can this be what we mean by the service of the heart, when a man's mind is flitting through the market-place all the while his body is stationed in the synagogue? . . . I therefore vehemently protest against the utter lack of the spirit of devotion in our public worship, whether it reveal itself in the meaningless chatter in which the people so freely engage, with no thought of the reverence due to the Lord of all, or whether it become manifest in the sundry secular announcements, especially those pertaining to the sale of articles of food, by which the service of the synagogue is regularly interrupted . . . Above all, I raise my voice in protest against that nefarious practice of calling a halt to the service until some factional dispute is settled or some personal grievance is redressed. Who can adequately characterize such an abomination? The irony of it all! The praise of God must be suspended, that the claim of some plaintiff may be satisfied! Has the house of God become a den of robbers, filled as it is with the raucous outcries of contending factions? We stand disgraced in the eyes of our non-Jewish neighbors, who frequent our houses of worship and, when made to witness such atrocious scenes, discredit our worship and denounce our ways of living! Can we conceive of any greater profanation of God's name? . . .

"I also protest against the insertion of too many *piyyutim* in our liturgy. Most of these *piyyutim* are woven around some *midrash*, which to one unfamiliar with the midrashic references, convey little sense. Even to those well versed in the sources, many of these *piyyutim* prove unedifying because they are lacking in the elements of true devotion, being chiefly recitals of past occurrences.

"I also protest against the cantors who chant the prayers with excessive elaboration, knowing full well that while so engaged they cannot concentrate on the thought of the prayers. In fact, many of them think of nothing else but the good impression they are bent on making, and the plaudits of the crowds they are anxious to win. Needless to say that the prayers chanted by the choristers are altogether senseless and savourless to the Lord . . .

"I have also observed that on the Sabbath and the Festivals, while the scriptural lesson is being read in the Synagogue, hosts

of people are leisurely strolling through the city streets, as if they had no portion in God's law. Such things should surely be condemned. There also ought to be instituted in every congregation the regular preaching of sermons on the Sabbath day. These sermons should deal with themes of ethical and ritual import, similar to those preached in former times, and not with midrashic exegesis from which the people can derive no special benefit. Who knows but what by such means those who have been lulled to sleep by the enticing present as well as those who have been lured by the pleasures of the moment, heedless of all consequences, may be sufficiently aroused so as to preserve the Synagogue in its holiness, to make it once again a fit abode of prayer?"<sup>122</sup>

It is only in this way, by perfecting the methods of our religious instruction and by purifying and elevating the spirit of our public worship, that we can hope to attain unto greater spirituality. For the perfection of man, the opinion of Maimonides to the contrary notwithstanding, is the chief aim of all existence,<sup>123</sup> and the supreme end of man's endeavors in life must ever be to cleave unto God by living in harmony with His will.<sup>124</sup> Conscious of this our great task and high destiny, we shall eschew from our lives all extraneous motives and interests and focus our entire energy on the single pursuit prescribed for us.<sup>125</sup> Of course, we shall frequently stumble and fall, but through sincere repentance we shall rise up again and continue the onward march. For every man, though subject to repeated backsliding, becomes, when truly repentant, a veritable Moses, mounting the Sinai of his spirit, the height where dwells the eternal God.<sup>126</sup>

#### IV

Structurally, the homiletical works of Ephraim Luntshitz fall into two classes: those that comprise finished compositions, complete in form and treatment, and those that contain only the exegetic material used, fragmentary or more elaborate homilies which the

<sup>122</sup> ש"ע, p. 23c-24d.

<sup>124</sup> *Ibid.*, P. II, Ser. 2, p. 12b.

<sup>126</sup> ש"ע, P. II, Ser. 30, p. 45a.

<sup>123</sup> ש"ע, P. III, Ser. 1, p. 66c.

<sup>125</sup> ש"ע, p. 8a.

preacher presumably preserved as the ground-work of more extensive discourses. To the former group belong the עו"א, the או"ל, and the ע"ש; to the latter, the עי"ג (first part), the כ"י, and the ש"ד. In either class, the originality of the author's technique is readily discernible. To be sure, the main features of his particular style of homiletical exegesis, in so far as these partake of the qualities peculiar to all forms of rabbinic interpretation, point to no novel or striking departure from the familiar ways of Jewish preaching. Yet, it is in the skilful employment of the well-known and widely used methods that Luntshitz reveals the power and resourcefulness of an original mind. Likewise, in the field of presentation, with its diverse ways of elucidation and delineation, though others before him made equally good use of the same media, Luntshitz achieves pictorial effects of singular charm and impressiveness. And, surely, in the framework of his more elaborate sermons, which, though patterned after no recognized literary models, yet preserves a clearness of outline and an orderly arrangement of ideas attained only by compositions of the standard type, he evinces a sure instinct for expert craftsmanship in the field of literary production.

Unlike the Italian preachers of his day, who took lessons from the ancient masters in the art of construction, Luntshitz to whom the Ciceronian principles of composition were unknown and foreign literary patterns inaccessible had to devise an acceptable outline, a sermonic scaffolding, of his own. This he did and followed so faithfully and with such regularity that the modern reader cannot but weary at times of the unrelieved monotony of an execution so uniform. Yet, in view of the absolute clarity of thought and the extreme brevity of expression he achieved by the constant use of this method, what critic would presume to find serious fault with a form fruitful of such substantial results?

In his best known collection of sermons, the עו"א, Luntshitz rarely, if ever, deviates from the framework of his own creation. Though the aim of his preaching, as he so often insists, is essentially that of the prophet, to declare to his people their transgression and to make known to them the paths of everlasting life,<sup>127</sup>

<sup>127</sup> הקדמה, עו"א; הקדמה, ע"ש; הקדמה, או"ל.

his method is largely that of the rabbinic interpreter. The text, or texts, both biblical and rabbinic, with which the sermon opens, must be thoroughly elucidated. This necessary undertaking demands, it would seem, that some fundamental truth be posited which, when proved by reason and supported by authority, will disclose the inner meaning, the spiritual implications of the text. It is not that the tangled textual difficulties must be unraveled before the thought of the text can be made simple and clear. The text as it stands is transparent enough. It need puzzle no one. But it hints at great depths below its unruffled surface. It invites careful exploration. It promises unexpected revelations. Accordingly, the citation of the text is immediately followed by the proposition, the truth the preacher would posit and prove, designated in the sermon as *הצעה*,<sup>128</sup> or *הנחה*,<sup>129</sup> and couched generally in conditional form, that is to say, if the proposition the preacher is forthwith to establish be accepted as true, the profounder meaning of the text together with its rational basis must become evident to all. The task of the preacher is thus definitely fixed at the very outset. He must endeavor to supply a valid reason, logical and authoritative, for the truth of a categorical statement which, when applied to the interpretation of a given text, will render its meaning more luminous and significant.

This method of approach is strikingly original and, as employed by Luntshitz, very effective, though it does suggest a reversal in the process of our thinking. For ordinarily we sense the possibilities of a text before we are ready to formulate a general proposition to be deduced from it. We first interpret and then gather up the results. And Luntshitz himself, it may be safely assumed, arrived at his conclusions by no other mental process, even though in the matter of presentation he chooses to attack the proposition independently, keeping the source in the background until the main stream of his thought is completely traced. Naturally, this method of procedure, dispensing with all the usual preliminaries such as the setting of the text or the origin of the question, enables the preacher to be brief in treat-

<sup>128</sup> ע"א, P. II, Ser. 28, p. 43c.

<sup>129</sup> *Ibid.*, P. I, Ser. 6, p. 9d.

ment. Also, since the elucidation of the text is deliberately delayed until the proposition is fully unfolded, it introduces the element of suspense and thus heightens the interest of the reader. But what the sermon gains by this method in compactness and piquancy, it appears to lose, as a public address, in naturalness, flexibility, and vivacity. In fact, these shortcomings must have become quite apparent to Luntshitz, for in his later productions such as the *או"ל* and the *ע"ש*, we find him earnestly at work to modify his earlier style of construction, to give it greater simplicity and spontaneity, although this also resulted in making the sermon more prolix.<sup>130</sup>

But not in structure alone, in his methods of exposition as well, does Luntshitz reveal the independence and originality of his homiletical powers. To be sure, animated as he was by the sole desire to instil into his people a deeper understanding and appreciation of the great mandates of the religious life, he spurned no method of instruction and edification which our earlier preachers deemed worthy and found helpful. And, surely, in a rich and extensive homiletical literature like ours, there is hardly a method known to the preacher's art but what finds therein abundant illustrations of its uses. But, while employing all the various vehicles and modes of expression made familiar by a long line of predecessors in the field, Luntshitz proved himself no servile imitator. He learned the way, but in following it he clearly evinced the power and fertility of an original mind. Whether he used textual or illustrative material, whether he summoned to his aid the skill of the interpreter or the pictorial effects of the imagination, it was always the freshness of the conception and the adroitness of the execution that lent uniqueness to his work and easily proclaimed him the master.

Sharing the characteristic common to all the medieval Jewish preachers, to use Biblical and rabbinic texts, other than those around which the proposition revolves, as illustrative material, not merely to buttress an idea advanced with the sanction of authority but also, and perhaps chiefly, to throw additional light

<sup>130</sup> See *או"ל*, דרוש לר"ה, p. 4a, דרוש לפסח, p. 19b; *ע"ש*, Ser. 5, p. 5a, Ser. 13, p. 12d.



upon it, to make it more lustrous and appealing, Luntshitz marshals in his sermons a large array of scriptural verses and haggadic statements; and it is through the aptness of his citations and the luminousness of his interpretations that he achieves some of his most impressive homiletical effects. The thought, for example, that the sense of the sacred will put us on our guard against the slightest infraction of the moral law, the merest peccadillo, is strengthened and vivified by the divine command to Moses: "Draw not nigh hither; put off thy shoes from off thy feet, for the place whereon thou standest is holy ground."<sup>131</sup> Shoes, among other things, render this necessary service, in that they enable us to walk the streets freely, unconcerned about the presence of small objects, like pebbles, in the path of our march. When barefoot, we naturally look out for the tiniest obstacle in our way. The holy calls for personal vigilance, the steady consciousness of insecurity.<sup>132</sup> We often hear it said that sin is natural to man because of his lowly, his earthly, origin. Would that man might retain all through life his earthly nature! Does not the Psalmist declare that "truth springeth out of the earth?"<sup>133</sup> Truth can best be learned from the earth. For what is falsehood if not a deviation from the truth? But nature is constant in its orderliness, never transgressing its eternal laws.<sup>134</sup> The evil of material possessions lurks in the dread possibility that they will eventually gain dominion over our souls, that they will come to possess us instead of being possessed by us. But the true man is he who masters his wealth and is not mastered by it. Is it not said of Abraham's trusted servant *המושל בכל אשר לו*, that he ruled over all that he had,<sup>135</sup> and that because of this quality in his character Abraham reposed unbounded confidence in him?<sup>136</sup> One's proficiency in the Torah, when not directed to flow into the channels of daily conduct, far from crowning him with honor, actually clothes him in disgrace. His knowledge only

<sup>131</sup> Ex. 3.5.

<sup>132</sup> ע"א, P. II, Ser. 56, p. 56c.

<sup>133</sup> Ps. 85.12.

<sup>134</sup> אמת, ע"ש, p. 17c.

<sup>135</sup> Gen. 24.2.

<sup>136</sup> בראשית, כ"י, p. 14d.

serves to set in high relief his life of disobedience. Solomon spoke truly when he said: "As a ring of gold in a swine's snout, so is a fair woman that turneth away from discretion."<sup>137</sup> The uncleanliness of the swine is proverbial. Nor are indiscreet women uncommon. Yet, in both of these instances, if the filthiness of the swine attracts attention it is solely because of the presence of the gold ring in its snout, and if the unseemly behavior of the fair woman evokes our interest it is chiefly because of the beauty that invests her person.<sup>138</sup> The touchstone of a man's profession of faith in the reality of the ideals of the spirit is the readiness to act with utter indifference to the supposed unrealities of life. Yet many people who seem wedded to a belief in the world to come are loth to surrender any of the pleasures of this world, at the call of duty. The genuineness of their affirmation fails the crucial test. In the Psalmist, though, we meet a man who stood the test, whose conduct testified to the strength of his conviction. For he boldly proclaims: **האמנתי כי אדבר אני עניתי מאוד**<sup>139</sup>—I actually believe what my lips profess, for I have endured much privation and affliction in the world.<sup>140</sup> The hankering after the superfluities of life, instead of being content with its simpler pleasures, is not, as some would have us believe, the natural accompaniment of a higher civilization, the indubitable sign of man's preeminence in the scale of existence. **ומותר האדם מן הבהמה אין**<sup>141</sup>—man's craving for luxury arises from the animal portion of his nature and is of no worth. To rejoice in the simple life is to grow to the full stature of a man.<sup>142</sup> In fact, those who crowd their hearts with a plethora of wants leave no room in their lives for the refining influences of the Torah, for **לא נתנה תורה לדרוש אלא לאוכלי המן**.<sup>143</sup>—the Torah can be properly studied only by those who, like the recipients of the Manna, gather their provisions from day to day.<sup>144</sup> No man, not even the humblest, need feel diffident in the performance of his appointed task in the world. It was because

<sup>137</sup> Prov. 11.22.

<sup>139</sup> Ps. 116.10.

<sup>141</sup> Eccl. 3.19.

<sup>142</sup> שער המדות, ע"ג, p. 70a.

<sup>143</sup> בשלח, מכילתא.

<sup>144</sup> דרוש לפסח, או"ל, p. 27a.

<sup>138</sup> במדבר, ש"ד, p. 68.

<sup>140</sup> עו"א, P. II, Ser. 28, p. 42d.

of his great humility that Moses felt reluctant at first to become the channel of divine revelation to his people. But he soon conquered his disinclination and timidity when he learned that it was on Sinai, the smallest of mountains, that God's law would be revealed. Hence the significance of the rabbinic statement: משה קבל תורה מסיני—Moses acquiesced in the proposed plan that he, a most humble man, become the recipient of divine truth only when it had been given him to see, מסיני, by drawing a parallel lesson from Sinai, that God always chooses the lowly as the most worthy of His trust and favor.<sup>145</sup>

True to his repeated declaration of principle that only ideas and ideals and not the skilful manipulation of texts, should engage the interest of the preacher, Luntshitz always treats his textual material as subsidiary to his thought, necessary and helpful, but of secondary importance. This source-material, however, so indispensable to the authoritativeness and impressiveness of the sermon, should be used with homiletical freedom though without extravagance. The פשט, the simple and evident meaning of the text, is not the only one to be considered by the preacher. A deeper signification, suggestive of subtler and more far-reaching implications, is often woven into its texture, and it is for the preacher to search for it diligently. The principle to guide him in his exegesis is best expressed by the Psalmist when he says: אחת דבר אלהים שתיים זו שמעתי<sup>146</sup>—"God has spoken once, twice have I heard this." There is inherent in God's word another, besides its literal, meaning which will be disclosed only to those who labor to find it.<sup>147</sup> Of course, the two are not identical and should never be made interchangeable; they must be kept separate and distinct. The רמז can never take the place of the פשט, but for homiletical purposes the one as the other can be advantageously used.<sup>148</sup> The scriptural verse, for example, על כן יעזב איש את אביו

<sup>145</sup> ויקרא, ע"ג, p. 3b; ע"א, P. II, Ser. 15, p. 29a.

<sup>146</sup> Ps. 62.12.

<sup>147</sup> ע"א, P. II, Ser. 3, p. 15a; ע"ג, פתיחה שניה, p. 31b.

<sup>148</sup> קרח, p. 87d.—Yet, while attaching great importance to the hidden and more profound meaning to be discovered in scriptural verses, he is loth to ascribe any value to the mystic interpretations of the Cabbalists, which he resolutely bans from his sermons.—ע"א, P. II, Ser. 13, p. 27a.

וְאָתָּה אִמּוֹ וְדָבַק בָּאִשְׁתּוֹ<sup>149</sup>—“Therefore shall a man leave his father and his mother, and shall cleave unto his wife,” leaves no room for doubt as to its real intention. Yet the additional thought that in choosing a wife a man shall stress, not her heredity and social environment, the habitat of father and mother, but her own personal virtues and accomplishments, cleaving solely to her own person, letting the quality of the tree testify to the nature of the soil, may appropriately be deduced from it without in the least altering thereby its primary meaning.<sup>150</sup> Similarly, when symbolical interpretations are resorted to for the elucidation and enforcement of a lesson of moment, it is not the wish of the interpreter to supplant the original meaning of the passage used but rather to indicate that עַל דֶּרֶךְ הַמִּדְרָשׁ, employing a recognized method of homiletical exegesis, we may add color and force to the idea in question. Thus, the thought that the repentant sinner, in re-dedicating himself to the good life, must adopt a stricter discipline than that of one who has never swerved from the path of duty, will gain confirmation and distinctness from the Biblical injunction: כִּי חִבְנָה בֵּית חָדָשׁ וְעָשִׂיתָ מַעֲקֶה לִנְךָ<sup>151</sup>—“When thou buildest a new house, then thou shalt make a parapet for thy roof.” Man, in his physical aspects, is often referred to as a “house.” So, too, is the social structure of our group life. When a man sins, he damages either his own house or that of society. When he repents, it is as if he refashions the house, builds a “new house.” Now, the roof of this new house must be exceedingly well protected, a parapet should rise up on the very edge of it, lest its occupant slip once again and fall a prey to the evil passions of the blood.<sup>152</sup> Thus, too, the claim of the preacher that through persuasion alone, as embodied in the sermon, can the sinful be won to repentance, will receive support and graphic presentation from the following haggadic statement: מִרְגְּלִית טוֹבָה הִתְּהָ תְלוּיָהּ בַּצֹּואֲרוֹ<sup>153</sup>—“A precious pearl was suspended from Abraham’s neck, and all the sick who

<sup>149</sup> Gen. 2.24.

<sup>150</sup> עוֹרָא, P. III, Ser. 2, p. 68a.

<sup>151</sup> Deut. 22.8.

<sup>152</sup> תַּצֵּא, עוֹרָא, p. 23b.

<sup>153</sup> T. B., BB. 16b.

looked at it were immediately restored to health." Repentance may well be represented by pearls, since pearls depend for their best ornamental effects on unity, that is, they must be properly strung together, and repentance, likewise, except during the special Ten Days of Repentance, requires for its potency the united profession and plea of the whole congregation. Hence the force of the enigmatic rabbinic declaration: The precious pearl, the spirit of repentance, that Abraham awakened in the sick of soul, was suspended, as it were, from his neck, that is, rested on the vigor of his pleading voice.<sup>154</sup>

But Luntshitz does not depend entirely on his interpretive faculty for the amplification of his thought. While using to the fullest extent the standard sources whence Jewish preachers of all ages have drawn their best illustrative material, he seems to recognize the inadequacy of a method that rests on memory and is aided by ingenuity but lacks in vividness and in imaginative appeal. Supplementary to the perennial sources of the past, therefore, he introduces new illustrative elements, based on personal observation and experience and conjured up by a lively fancy. His sermons thus abound in apt and striking analogies derived from the plain facts of every day life, and in impressive parables drawn with imaginative insight and natural simplicity. The thought, for example, that when our fancied grievances remain unredressed it is not that the loving Father of the universe is indifferent to our welfare and unheeding of our cries but that in His sight the trivialities we magnify to our own hurt appear in all their naked insignificance, receives added clearness and emphasis from the analogy of the child who plays with his toys and cries out bitterly when some passer-by chooses to thwart him in his childish plans, only to discover that his own father remains quite unmoved by the imagined outrage.<sup>155</sup> The prime need of the penitential mood and the subsequent promise of divine reconciliation find their exact parallels in the process of restoration that follows the rupture of a human friendship. While both parties are equally anxious to see their former relationships reestablished, neither of them seems willing to take

<sup>154</sup> א"ל, pp. 6b-7a.

<sup>155</sup> קדושים, י"ב, p. 74d.



the initiative, until the usual compromise is effected whereby the younger of the two is to go forth to meet the older and the latter, by way of reciprocity, is to set out immediately thereafter on the same peaceful errand.<sup>156</sup> Men of much erudition can dispense with the testimonial of ordination; it is for men of superficial training and meagre accomplishments that the meretricious honor is chiefly intended. An edifice built of very costly materials needs no exterior decorations to make it beautiful; it is only when an inferior grade of stone or timber enters into its walls that the painter's art of ornamentation is regretfully invoked.<sup>157</sup> God often denies to His faithful children the things they regard as necessary to their happiness, such as abundant possessions and sensuous pleasures, bestowing them instead on those who disobey His will. But these apparent deprivations are true signs of His mercy. The child clamoring for some unwholesome food which his father forthwith casts unto the dog, may well complain of his father's misplaced affection. Yet to the maturer mind it becomes increasingly evident that parental love knows how to give by withholding.<sup>158</sup> The man who squanders his time and fortune on the fleeting pleasures of the earth, instead of devoting his energies to the storing up of the permanent treasures of the spirit, is like the merchant who makes a long journey to one of the great fairs for the purpose of getting acquainted with trade conditions and of acquiring needed merchandise at advantageous prices but who, immediately upon his arrival, attracted by the novelty and variety of the scenes presented, plunges into an incessant round of pleasure such as the many places of doubtful entertainment may afford, only to discover, when he has had his fill, that the fair is over and that it has brought him nothing but nauseous satiety and bitter regret.<sup>159</sup> Again, the righteous men are the natural protectors and defenders of their generation. When God in His great wisdom chooses to remove them, it is not that He wishes to abandon His defenceless children; He rather means to teach

<sup>156</sup> א"ל, p. 19.

<sup>157</sup> א"ל, P. III, Ser. 8, p. 74b.

<sup>158</sup> *Ibid.*, P. I, Ser. 3, p. 6c.

<sup>159</sup> *Ibid.*, Ser. 6, p. 9c.

them the virtue of self-reliance. There was once a mighty king who ruled over many provinces and labored steadily and lovingly for the peace and happiness of his subjects. One of his dominions, the largest among them, felt especially secure, despite repeated attacks by surrounding enemies, because there lived in its midst a brave warrior possessed of much military skill and resourcefulness. As often as the peace of the province was threatened by some foe or another, this their unvanquished hero would ward off the attack and cause the reign of tranquility to continue. Once, however, a number of foreign tribes formed an alliance to war against the province. This intelligence aroused much anxiety and fear. The people dreaded the consequence of such a united attack. Their hero, on whom they solely depended, might be overcome by the concerted effort of so numerous a host. In their fear and dismay they addressed a plea for additional military help to their king, only to receive in reply the peremptory order that their national hero repair forthwith to the king's court to abide there for the duration of the impending war. The consternation the royal decree created knew no bounds. Bereft of their invincible leader, how could they hope to withstand the formidable forces arrayed against them? At this critical juncture, one of the wise men arose and said: "Blame not the king. He is no cruel master. He knows that a single hero cannot cope successfully with the present situation. All of us must perform the feats of heroism of which we are capable if we are to survive the combat. We have long been nestling in the comfortable security which comes from the knowledge that one great warrior can wage and win our battles. We have grown flabby and faint of heart. The native heroism of our souls has been stifled. This the king knows full well. He has therefore caused the staff on which we have been leaning to be taken away from us that we may learn to stand unaided and walk with confidence." Thus wisdom spoke, and the people hearkened to its voice. They boldly and bravely set out to meet the enemy, and with a courage born of despair they fought against overwhelming odds and emerged victorious.<sup>160</sup>

<sup>160</sup> נ"ץ, P. IV, Ser. 5, p. 107d.—For other examples of his more elaborate parables see P. II, Ser. 22, p. 35a, Ser. 25, p. 37d, Ser. 30, p. 45b, P. III, Ser. 1, p. 67a, etc.

It is in this wise that Luntshitz develops his ideas and presents his message. In his earlier works, as in the *עוללות אפרים*, for example, he omits the recapitulation and appeal even as he dispenses with the exordium, making the application run continuously through the body of the sermon. The conclusion of the sermon thus coincides with the completion of the thought-development. In his later works, however, as in the *אורח לחיים* and the *עמודי שש*, products of a maturer style, he takes considerable pains to construct a vigorous and penetrating conclusion even as he does to frame a logical and incisive introduction. The application, preceded by a brief recapitulation, is couched in compact form and placed at the very close of the sermon, thus bringing to a fit end a message vibrant with beauty and power.

## V

In the history of Jewish preaching, Ephraim Luntshitz occupies a position of preeminence by virtue of the high literary quality of his work, the great spiritual depth of his thought, the sublime daring of his faith. Alone, and far removed from the wider literary currents of the day, he yet evolved an individual style of preaching as colorful and effective as it was novel and unique. Reared in a milieu much given to the discipline of conformity and routine, he yet maintained undimmed the bright visions of his soul; and with an insight and power truly prophetic, he pierced through the hard and cold surface crust of congealed custom and practice and brought to view the sparkling and refreshing waters of the spirit. Called to labor in an age steeped in self-righteousness and arrogance, when the voice of the seer was drowned in a tumultuous outburst of vituperation and calumny, he yet clung to his faith in the spiritual potentialities of men and in the healing power of divine truth; and with a courage that was never known to wince or falter, he encountered the evil forces and influences of his day, leaving in his writings a record of great spiritual adventure if not of glorious personal triumph.

## היהודים בטאנגיר

יעקב משה טולידאנו, קהיר (מצרים)

החקירה על דבר הישוב היהודי בטאנגיר, קדמותו ועברו, חשובה מאד, לא רק מבחינה מדעית-היסטורית, כי אם, גם מבחינה פוליטית, בתור אחד העמים היותר קדומים בעיר אנטרנציונלית זו, וגם בהיותה עיר-הבינים בין מארוקו וספרד, שתי הארצות ששמשו בתקופות רבות ערש למאורעות גדולים בחיי עם ישראל.

עוד אין לנו שום ידיעה מפורטת, ממתי החל הישוב היהודי בטאנגיר, אכן, אין ספק בדבר, שכמו ברוב ערי החוף של מארוקו, כן גם בטינגים, החוף הראשי, ישבו היהודים מזמן קדמון, עוד מימי הקרתגים, וישובם נמשך בלי הפסק, בכל התקופות הקדמוניות, של הרומאים, הוואנדאלים, הביזנטים, והגוהטים, ועד הכבוש הערבי.

טאנגיר, כמו סיוטא (Ceuta), באדיס (Badis), וגיברלטר (Gibraltar), שמשה גם היא, בלי ספק, גשר מעבר בין שני חלקי היהדות, של שני עברי המדיטריני, בין יהודי ספרד, ובין יהודי מארוקו, ביחוד בהמאות החמישית עד התשיעית, בתנועת ההתקוממות והמלחמות שהיו אז, שהיהודים בשתי הארצות האלו, לקחו בהם חלק גדול, כידוע, השם וואד-אל יהודי (Ouah Elyhoud) הידוע לחלק צפון העיר טאנגיר, מקורו בודאי מן התקופה ההיא, מראשית הכבוש הערבי-היהודי.

ישנם הגדות עתיקות בעיר זו, שחשפרנה, על כפרים שהיו שייכים ליהודים, בסביבות טאנגיר, סיוע להגדות אלה, יש למצוא בשמות המשפחות, אנינאר, ובן-גו, הנמצאות רק בשתי הערים טאנגיר וארזילא (Arzila) הסמוכה לה, ולא בשום עיר אחרת במארוקו וגם לא בשום מקום מארצות המזרח, זה מוכיח לנו ששתי המשפחות אלה, הן מקומיות, זאת אומרת, שריד מהישוב היהודי העתיק שהיה בסביבה זו, ובאמת, הננו מוצאים בסביבה הקרובה לטאנגיר, את המקומות אנגרא (Anjera) ובינא (Benja), ששם מוכיח, שהן מקורן ומוצאן של שתי המשפחות ההם, ובוה נוכל לאשר את ההגדות הנזכרות על דבר ישובים יהודים בכפרים, בזמן הקדמון.

בספרי „גר המערב“ חלק שני שיודפס בקרוב, הוכחתי כמו כן, ששני האחים יעקב ויוסף בן גו, שהראשון מהם נמנה לשופט ונשיא על כל קהלות ישראל

<sup>1</sup> ראה, קאזיס בס', *Essai sur l'histoire des Israélites du Tunis*, Paris Sluchz. *Voyage d'études juives en Afrique*, Paris Toledano. *Ner Hamahrab*, Jerusalem 1911. Ortega. *Hebreos de Marruccos*, Madrid 1919. La Ronciere, *La Decouverte de l'Afrique au Moyen Age*, Paris, etc.

שהיו בחלק ממארוקו, מסגלמסא (היא Tafilelt) ועד נהר די ווירגה (Oued Ouergha) שבחלק הדרומי של ריף (Rif), בימי המלך האנדלוזי השאם, בחצי האחרון של המאה העשירית, היו מקרב המשפחה הזו הטאנגירית, וכל זה מוכיח לנו על קדמותו של הישוב היהודי בטאנגיר וסביבתה.

רוד-אל כרטס, ההיסטוריון הערבי הידוע, יספר, כי אדרים הראשון בבואו למארוקו, בא ראשונה לטאנגיר ולא ערבה לו ישיבתה ויצא ממנה [787 לסה"נ] אך מדוע לא ערבה לו ישיבתה, לא הגיד ההיסטוריון הזה, ולפי המובן, שבה היו רוב תושביה נוצרים ויהודים מפותחים ואנשי מסחר.<sup>2a</sup> ולא היה יכול להשליט השפעתו עליהם, ולכן היה צריך להרחיק ולנסוע לפניו מארוקו, ואמנם, כפי שנדע, לאחר שנים אחדות היתה גם טאנגיר לשלטון האדריסיים שמשלו בה זמן רב.

הפעם הראשונה, שבה מצאנו את זכר הישוב היהודי בטאנגיר, בפירוש, הוא, אצל כותב דברי הימים לבני ישראל, הידוע, ר' אברהם בן דוד, שדברו על רדיפות אלמווחידין (Almohades) כותב, "שקראו חרב על קהלות ישראל מן טאנגה בראש המערב ועד אלמוהדיה בקצה אפריקה". ומוזה נדע, שקודם לכן, בימי שלטונם של האלמורבטיין (Almoravedes), החקיים ישוב יהודי בטאנגיר, ורק אז במשול האלמווחידין, נהרס, יש להתפלא אמנם, שלא נזכר הישוב הזה בקינתו של רבי אברהם בן עזרא אז, על חרבן הקהלות בצמיחת האלמוהידין, אף כי הזכיר שם את קהלת סיווטא הקרובה. ויתכן, שהקהלה בטאנגיר, היתה פעוטה, או, יותר נכון לומר, שבגלל מרכזת המסחרי החשוב, לא סבלה קהלת טאנגיר כל כך, מידי האלמווחידין, כשאר הקהלות במארוקו.

במשך כשלוש מאות שנה אחרי כן, אחרי כבוש האלמווחידין, לא מצאנו זכר לקהלת יהודי טאנגיר, וגם בכבוש הפורטיגזים אותה ואת ארזילא [ה"א רל"ח, 1471] נזכר רק שהפורטיגזים שבו מאתים וחמשים איש מיהודי ארזילא, למוכרם ממכרת עבד, ונפדו אחרי כן ע"י דון יצחק אברבנאל בספרד, לא כן על יהודי טאנגיר, לא דובר כלום, אין ספק שיחד עם יציאת המוסלמים אז מן העיר כידוע, יצאו גם יהודיה, וכן נמשך המצב הזה זמן רב, עד שגם בגירוש ספרד (ה"א רנ"ב, 1492) ובגירוש פורטוגאל (ה"א רנ"ז, 1497), שהמגורשים באו כמעט לכל חופי אפריקה הצפונית, ויבואו גם לאלקסר (Elkasar Kivir), לאראני (Larache), סיווטא, ובאדי, וארזילא, לא מצאנו לגמרי שבאו לטאנגיר, וגם אלה שבאו לארזילא הפורטוגזית, סבלו כידוע רדיפות ויסורים נוראים.<sup>3</sup> ולפי הנראה, שהפורטוגזים שמרו כל כך על טאנגיר, ולא הרשו לאנשים זרים לבוא אליה בשום אופן.

<sup>2</sup> ראה בס' הקבלה להראב"ד.

<sup>2a</sup> ראה במאמרו החשוב של מר אנדרי פייר, על מצבה המדינית והמסחרית של טאנגיר בתקופות קדמוניות ההם ועד המאה האחרונה. בהעתון היומי *La Depeche Marocaine*, 20 Mai 1928.

<sup>3</sup> ראה בספרי נר המערב ח"א, עמוד 50, 54, ועי' עוד להלן הערה 7.



זכרון למשפחות יהודים מטאניר, שיצאו ממנה <sup>4</sup> עם שלטון הפורטוגזים, הגנו מוצאים בשמות שתי המשפחות טנוני, וטנני, הראשונה משפחת כהנים שנדרה לתונים ומשם למצרים וא"י, ותחשב לאחת המשפחות המיוחסות, והשנית, משפחה ישראלית שנדרה לדרום מארוקו.

לפי הנראה, שברבות השנים הרשו הפורטוגזים ליהודים לבוא ולהתישב בה, בטאניר, כי בחצי האחרון של המאה השש עשרה התקיימה בה קהלה יהודית, כפי שנראה ממגלת הפורים שקוראים יהודי טאניר בכל שנה ביום ב' אלול לזכרון מלחמת שלש המלכים הידועה על-יד אלקסר, במגלה זו כתוב, „שנת פדות של"ח (1578) נעשה נס גדול עם כל יהודי המערב שמלך פורטוגל סבסטיין <sup>5</sup> בודון לכבוש ארצות המערב ואסף חיל גדול ועם כבד כחול הים ופרשים . . . ויעבור עם כל המחנה ההוא ארצות ימים תוך אניות ובורניות גדולות וצים ויבא עד עיר טאניר יע"א ובצאתו ליבשה בעיר הנז' שם סידר כל מחנהו עם שרים רבים ונכבדים הבאים אתו מארצות רחוקות עם רב מכסים את עין הארץ ויסע משם עם כל חילו לבוא לכבוש המדינה הראשונה לפניו היא לקצר לכבירי בדגלים פרושים וסוס דוהר ומרכבות בקול שיר ורנה. ויהי היום יום ב' אלול ערך מלחמתו עם כל צבאותיו להלחם עם מלך המערב אשר בא להלחם עמו להציל ארצו מידו. והעת ההיא עת צרה ליעקב, יען שסבסטיין בודון לבו נדר בבית אלהיו שאם יכבוש ארצות המערב שיעביד לכל אשר בשם ישראל יכונה במי באוטיסמף וכל מי שלא ירצה לעבור יהרג בחרב. וזה הונד לנו על ידי שני יהודים אנוסים שבאו עם חיילותיו ואמרו לנו בקשו מאלהיכם אולי יחנן עליכם ובקשנו על עצמנו מהקב"ה וזכר אותנו . . . . ובשעה אחת בו ביום נבהלו נחפזו רעדה אחוזתם <sup>6</sup> ספו תמו מן בלהות וסבסטיין נפל שרוד עם כל ראשי חיילותיו וכל המחנה ההוא היה לחרדת אלהים כי אפילו אשר ברחו לא נמלטו וכלם נעזבו בידי הברברים. ועל כן קיימו וקבלו היהודים הרבנים ואנשי מעשה אשר היו בזמן ההוא ע"ה עליהם ועל זרעם אחריהם ועל כל הנלוים אליהם להזכיר יום זה בכל שנה ושנה ולתת צדקה לעניים ולעשות אותו יום משתה ושמחה ובשוב ה' את שיבת ציון יגל יעקב ישמח ישראל. חסדי ה' אזכיר תהלות ה' כעל כל אשר גמלנו . . . . המגלה הזאת נמצאת בכתיבת יד בבתי כנסיות אחדות בעיר טאניר.

מזה נדע שהיתה קהלה יהודית בטאניר אז, שקבלה עליה ועל זרעה את יום הפורים ההוא. קהלה זו נשארה בלי ספק גם לאחר כן במשך שנות השלטון המאוחד של ספרד-פורטוגל (1580-1640) תחת הנהגת מלך ספרד, שאז היתה טאניר תחת השפעת ספרד, ואמנם בשנת 1643 שבה עוד הפעם לרשות פורטוגל, ואז לא ידענו ברור מה היה יחוסה אל יהודי טאניר.

<sup>4</sup> ראה שם הגדולים לרב אזולאי אות ר' ישמעאל הכהן טנוני.

<sup>5</sup> Elkasar-Kivir.

<sup>6</sup> המלה זו שנכתבה בלשון ספרדי או פורטוגזי, מובנה, טבילה במים לשם התנצרות.

אחד הסופרים הערבים יספר,<sup>7</sup> כי לא הורשו היהודים להשאר בעיר, ורק לשתי משפחות מהם. האחת ממשפחת אבן-צור והשנית משפחת אזנקוט. הורשה להם להשאר בתור מתורגמנים בין התושבים ובין הממשלה. אך, לא נדע עד כמה מן האמת יש בשמועה זו.

ואיך שיהיה יחסה של פורטוגאל או ליהודי טאנגיר, הנה ימי שלטונה הפעם לא ארכו כל כך. שבטי התושבים התקוממו נגדה פעם כפעם. וביחוד הצטיין אבו-לעבאס גיילאן, שברח מעיר סאלי (Salé) מפחד מולאי ארשיד. ויבא לטאנגיר בשנת ה'א ת"א (1651). ומיד החל בהתקפותיו נגד הפורטוגזים. וגם בש' תכ"ב (1662) שאז נמסרה העיר לאנגליה בתור נדוניה כידוע, לא חדל גיילאן מלתקוף גם אותם, עד שנת 1666 שהשלים עמם. ויהי יחד את האנגלים מושל ומנהיג בעיר, עד מותו במלחמתו עם מולאי ישמעאל, שאז בזמן מועט אחרי כן עברה טאנגיר לידי ממשלת מארוקו [ה'א תמ"ד, 1684].

ובהחליפות והתמורות האלה, לא שונה מצב יהודי טאנגיר לטובה. גיילאן היה איש קנאי ואוהב בצע, ועוד בהיותו בסאלי, גזר להשמיד ולהרוג את היהודים לולא שוחד בחיק<sup>8</sup> כלשוננו של בן הדור ההוא.<sup>9</sup> ובוראי שכך התנהג גם עם יהודי טאנגיר. כמו כן, במות גיילאן, לחץ בא-כח אנגליה שמשל שנים אחדות אח"כ, את היהודים והנוצרים תושבי העיר, כפי שיסופר אצל סופרים אחרים.<sup>10</sup>

וככה נמשך הדלדול בקהלת טאנגיר בכל הזמן ההוא, וגם אחרי כן בימי שלטון מולאי ישמעאל, לא יכלה להתנער. בידי נמצאה רשימת-נדבות של שד"ר אחד, רבי שמואל לוי מעיר חברון, שסבב בשנת ת"ע (1710) בכל ערי מארוקו ובכפרים, ורשם את הסכומים שקבץ בהם, ושם טאנגיר לא בא ברשימה ההיא. אין זאת כי אם שהשליח ההוא לא מצא צורך לנסוע אליה, בהיותה דלה ומצער. על מצבה זה הוסיפו אחרי כן המאורעות הידועים שאירעו במארוקו, הרעב בשנות ת"ף-פ"ח, והמגפה בשנת תצ"ח,<sup>11</sup> שאז נתרוקנה קהלת טאנגיר כמעט לגמרי, ולא נשארו בה כי אם פליטים אחדים, ואף כי נוספו בה אחרי כן איזה משפחות יהודיות מעיר תיטוואן (Tetouan) הקרובה, נשארה קהלה פעוטה ותחשב כקהלת-כפר. ומפני כן לא יכלה למנות לה אז רב דתי במשך השנים ההם, וכל עניני הדת והנהגת הקהל שלה, נמסרו לידי רבני העיר תיטוואן, ותהי נגדרת אחריהם.

דוגמא לזה, תראה לנו העובדא דלהלן, שאירעה בין יהודי טאנגיר בשנת תק"ד (1744). איש אחד מבני הקהל עשה איזה עון שהמריץ את שני חכמי

<sup>7</sup> זה הניד לי המנוח הסופר המלומד מר משה נחון, שראה כן בספר ערבי אחד, שאיני זוכר שמו כעת. חשבתי לשער שאולי דברי הסופר ההוא נאמרו על הכבוש הפורטוגלי הראשון של 1471 הנזכר לעיל. אמנם, איני חושב שמשפחת אבן צור נמצאה בטאנגיר אז באותו זמן, כי לפי היריעה לי, היא מגורש ספרד.

<sup>8</sup> ס' ציצית נובל צבי הובא גם בספרי נר המערב עמוד 116.

<sup>9</sup> אורטיגא *Los Hebreos de Marruecos*.

<sup>10</sup> ראה נר המערב עמוד 130-132, ולהלן בהסכמת הקהל.

הקהל <sup>11</sup> רבי יצחק כהן, ורבי יהודה חדידה, לחקור על הרבר. ויקראו גם את השוחט רבי שלמה כהן להגיד העדות שידע באותו ענין. והדבר הגיע עד למושל העיר. וזה תפס את שני החכמים ההם ואת ר"ש כהן העד וכל בעלי הריב, וייסרם, ויטיל עליהם קנסות, ואת ר"ש כהן, שם במאסר, עד שהיה צריך לברוח ולהמלט בקבר מוסלימי ידוע ומשם הלך לו לעיר פאס (Féz) עד יעבור זעם. וכל המאורע הזה הוגש אחרי כן לפני רבני תיטוואן. והם דנו כי לא טוב עשו שני החכמים ההם והשוחט. ולכן ביזו אותם וגערו בהם וגם רצו להענישם מלקות ולאוסרם במאסר, דבר שלא היה רצוי בעיני רבני פאס, שאמרו, כי יפתח בדורו כשמואל בדורו.<sup>12</sup>

עוד דבר מראה לנו על מעיטות הקהל הטאנגירי אז, הוא מה שנוכיר להלן כי, אז, שחטו בכל השבוע שור אחד והספיק לכל אנשי הקהלה. ואמנם, שנים אחדות אחרי כן, בחצי השני של המאה הי"ח, התחיל המצב המדיני והמסחרי בעיר להשתפר. ועם זה התגדלה הקהלה לאט לאט. סוחרים גדולים יהודים מסאלי ומתיטוואן, שלחו סחורותיהם לטאנגיר,<sup>13</sup> ויהודים משתי הערים ההן ומעיר מכנאס (Méknès) ועוד, באו להתישב בטאנגיר ולסחור אותה. עזר הרבה לזה האיש רבי משה בן מאמאן, יליד מכנאס ותושב תיטוואן, שהיה הוא חוכר המכס של ממשלת מארוקו. ויעש הנחות וויתורים לסוחרים היהודים שסחרו באכספורט ואמפורט בחופי טאנגיר ותיטוואן. הוא קבל מהם רק חצי הסכום של המכס הקצוב, דבר שהמיט עליו קנאה ושנאה מצד הסוחרים שאינם יהודים וירצחוהו נפש בעיר תיטוואן בש' תקכ"ג. ואמנם, התנו רבי יעקב דלויה שמלא את מקומו המשיך בדרכו זה ויוסף גם לתת הלוואות כסף לסוחרים יהודים.<sup>14</sup> בזמן ההוא בערך הננו מוצאים את שם יועץ-המלך שמואל בן סומבאל, שתווק בין המלך מולאי מחמד ובין ממשלת ספרד. וזו הכירה בשירותו ובטובתו אתה. ותתן לו בשכרו שלשת אלפים פיזוס פוורטס.<sup>15</sup> בטאנגיר נמצאה מזה קרוב מצבת-אבן גדולה בערך מטר אחד ארכה.<sup>16</sup> שעליה חקוק כתבת זו "נבש"ם הנבון וחשוב הנגיד כהה"ר שמואל סומבאל יום ו' טו"ב לחש' (לחשון?) שנת בראש"ם". ובלי ספק, שזהו בעצמו שמואל סומבאל יועץ-המלך הנוכר, שהיה איפוא נגיד העדה בטאנגיר.

בין המתישבים החדשים הראשונים שנוספו אז על קהל טאנגיר, היה רבי אהרן טולידאנו, האח הגדול שבארבעת האחים שעמדו אז בראש הקהלה במכנאס, שאודותם דברתי בס' נר המערב ח"א עמוד 146,<sup>17</sup> 149, 150, ובנו

<sup>11</sup> כ"ז עפ"י שו"ת מו"צ ביעקב סי' רס"ה. <sup>12</sup> עי' מו"צ ביעקב סי' ב' וסי' רס"ה הגו'.

<sup>13</sup> כ"ז עפ"י כ"י אצלי שיודפס בלשונו בס' נר המערב ח"ב.

<sup>14</sup> אורטיגא בספרו הנוכר למעלה, ושם כתב שסומבאל זה היה ממרסיליה, אך, הוא ממארוקו, והיה אולי במרסילי'.

<sup>15</sup> מצבה זו שמורה עוד בבית-החיים בטאנגיר.

<sup>16</sup> שם בספרי טעיתי לחשוב ששמו ר' דניאל ועי' שם בהערה. והאמת, ר' אהרן, כמו שביררתי

בנה"מ ח"ב.

רבי משה טולידאנו נמנה אז לדיין בעיר, וגם לשוחט. יחד עם רבי שלמה כהן שזכרנו מעלה. ומרבי משה זה השתלשלה אח"כ משפחה רבת אוכלוסין והשפעה בעיר.

ומאז, יכלה קהלת טאנגיר להתפתח ולהתגדל מהר. ואף הרעש שהיה בעיר בש' תקל"ג ביום י"ט ניסן ויהרוס מאה ועשרים בתים, לא הזיק כלום לנפשות לדברי כותב זכרונות מבני הדור ההוא.<sup>17</sup> אכן, עצרו את התפתחותה של הקהלה, הרדיפות שבאו לפתע בשלטונו של מולאי יאזיד (תק"ן-תקנ"ב, (92-1790). הוא בא לעיר זו ויאלץ את היהודים למכור גם את חפצי ביתם ולשלם את המס הכבד שהטיל עליהם. פה בטאנגיר חפש יאזיד את ידידי אביו, השרים, יעקב עתאלי ואחיו, ואחד מבני קרדונו. ליעקב עתאלי הרג, ואחיו המיר את דתו, ולקרדונו שם במאסר.<sup>18</sup> יחד עם זה הכריז יאזיד פה מלחמה עם ספרד. וכל זה גרם כמובן, צרות רבות לקהלה צעירה זו.

ואמנם, עד מהרה, מלך מולאי סלימאן. ויושב המצב שוב, ואז, הגיע מספר הקהלה בטאנגיר לערך מאתיים משפחות. שבראשם עמדו בניו של רבי משה טולידאנו הנזכר למעלה, והם רבי אברהם, ורבי יוסף. רבי אברהם נמנה לדיין, ורבי יוסף לשוחט, ויחד אתם היה גם רבי משה הכהן בנו של רבי שלמה כהן הנ"ל. ואמנם בין שני הרבנים, ר"א טולידאנו, ור"מ כהן, פרץ ריב שנתפשט גם בקרב הקהלה, בין חלק מהיהודים התושבים לפנים, ובין היהודים המתיישבים מחדש שרובם היו מעיר מכנאס יודעיו ומכיריו של רבי אברהם טולידאנו ור' יוסף אחיו. ודבר הריב הזה הוגש אח"כ לפני רבני ערי מארוקו לשפוט ביניהם. אך גם אלה היו לשתי פלגות. רבני תיטוואן עמדו על צדם של היהודים התושבים מכיריהם, ורבני ערי מארוקו האחרים זכו את רבי אברהם ובני סיעתו. ואמנם, גם מתוך דבריהם של רבני תיטוואן ניכר, שהכירו בנודולו של רבי אברהם, אלא שבכל זאת רצו שקהל טאנגיר ישאר כפוף ונגרר אחר תיטוואן כמלפנים. לא כן רבני ערי מארוקו רובם, הבליטו שמכיון שקהלת טאנגיר גדלה עתה ויש לה רב הגון משלה, אין לה להיות עוד נגזרת אחר תיטוואן. דברי הריבות האלה נמשכו בין שנות תקנ"ח-תקס"ו, ואז סוף סוף, גברה לאחרונה הכת של רבי אברהם. וקהלת טאנגיר עמדה מאז ברשות עצמה.<sup>19</sup>

הננו נותנים פה בקצור תוכן דברי הפסקי-דינים שנכתבו בענין זה, וקצור הסכמת הקהל משנת תקנ"ח. ההסכמה הזו נעשית בלשון אספניול, ותורגמה לעברית באותו זמן. להשלח לרבני שאר ערי מארוקו שלא ידעו אספניולית.

<sup>17</sup> כתב יד אצלי.

<sup>18</sup> עי' נה"מ צד 167, 171 בשם רומאנילי בס' משא בערב.

<sup>19</sup> הדברים האלה אישר אח"כ גם הרה"ג ר' מרדכי בן נו"ל שזכר להלן, בפס"ד כ"י אצלי שכתב בו בזה"ל. כבר שמעה אני מפה קדוש הרב מר זקני ז"ל שטאנגאר אינה נגזרת אחר תיטוואן כלל נר"ל אחרי גידולו ועיניו ראות כמה ענינים, חלוקים מנהגיו ממהנייהם. ונוסף ע"ז שיש בידנו פסק מלא ונדרש מראשונים כמלאכים רבני המערב שבהסכמה עלו שמח"ק טנגאר אינה נגזרת אחר תיטוואן וכו'.

„להיות אמת שמקדמת דנא היתה העיר הזאת יושביה בני קהלנו יש"ץ אנשים בה מעט ולמרבית היו שוחטים בה שור אחד בכל שבוע . . . היו לוקחים השוחטים בשכר טורחם הראש [ראש הבהמה] ובבהמה נסה שתי מעות יותר על הראש. השוחטים היו ה"ה החכם ר' משה טולידאנו ז"ל וה"ר שלמה כהן ז"ל וגם היו לוקחים זה מצד טפול העיר שהיה עליהם צרכי צבור. אחר כך כשנפטר החכם הרמ"ט ז"ל נכנס בנו במקומו ה"ה כמוהר"ר אברהם טולידאנו יצ"ו והרי הוא לבדו בעול הכבוד הזה שנה אחר שנה. אח"כ כשהוכבד העול על מהרא"ט יצ"ו ולא היה יכול לסבול במשא העם מחמת טפול הקהל שנתמנה עלינו לדיין לרון ולהורות בין איש ובין רעהו. אז נכנסו להיות שוחטים כהה"ר משה הכהן נר"ו וכהה"ר יוסף אחי מהרא"ט נר"ו וכל הדבר הקטון היו הם עושים בדיקה וכשהיה איזה ספק היה בודק אותה מהרא"ט נר"ו והיו מחלקים שכר הטבחות החצי לכל אחד הרמ"ך והרי"ט ואפי' שהיה השכר גדול כשהעיר נתגדלה והיו שוחטים בה הרבה. עכ"ז מפני שהיה הרמ"ך הנו' חולק עם אביו הרש"ך הנו' חלקו, היו מניחים אותם ליטול כל שכר הטבחות, עד ימות הקיץ זה שנלב"ע הרש"ך הנו' ונתקבצו אנו בני קהלנו יצ"ו לחקן בקיעי עירנו ועיינו וראינו שהעיקר והיסוד אשר יש לנו בעיר הזאת הוא החכם כמהרא"ט נר"ו אשר הוא שקור על לימודו ומרבה בשיבה בלימוד התלמידים יומם ולילה והוא מנהיג אותנו על התורה ועל העבודה לרון בדיני ממונות ואסור והיתר . . . וראינו שאין לו שום הכנסה כלל וסיוע מאתנו והוא אינו רוצה ליהנות מאתנו וכדי שלא ליכנס ב"מ בכת של כפויי טובה . . . . הסכמנו בהסכמה גמורה וקבלנו עלינו ועל זרענו בקבלה גמורה דלא תיעדי מינן שמהיום הזה והלאה השוחטים שהם הרמ"ך והרי"ט יטלו המחצית השכר ויחלקו אותו בשניהם, והמחצית האחר יטול אותו מהרא"ט נר"ו ואם לא ירצו השוחטים הנו' לשחוט כך, אז אנחנו ממנים שוחטים אחרים. זה קבלנו עלינו ועל זרענו בקוש"ח בשבועה שאין לה התרה כלל כ"א על דעת מאה רבני אשכנז כי כך נאה ויאה לנו מכמה טעמי והיה זה ביום ג' כ"ה חשון שנת תקנ"ח פה טאננה יע"א וחתומים בה רוב מנין ורוב בנין הלא הם, כה"ר משה נ' אסולין, שמואל חרירה, מסעוד פווינקינוס, . . . נ' סלוס, משה אצבעוני, מסעוד אביקציץ, שלמה נ' אסולין, יעקב בן סוסאן, יצחק כלפון, דוד סקסו, יהודה סלאמה, שלמה נ' אצאייג, דוד עטיאה, יהושע נ' אצאייג, שלמה גרשון, יעקב נ' חמו, יהודה אונקוט, יוסף פימיינטא, משה פאריינטי, חיים גבאי, יצחק נ' אצאייג, אברהם נ' דלאך, יוסף נ' מרגי, שלמה נ' שימול, אברהם בן גו, יעקב נ' אצאייג, מסעוד נ' שטרית, אברהם סיכסו, יצחק קטן, אברהם אסאיל, אהרן סלאמה, יהודה האיות, יצחק נ' עמור, משה נ' אצאייג, מכלוף הלוי בן שושן, שלום אצבעוני, חיים אונקוט, דוד ארווימי, מרדכי עטיאה, אברהם אבוהב, אברהם נ' סלוס, יוסף עטיאה, יוסף נ' אסולין, יונה נ' אסולין, ישועה נ' אצאייג, יהודה קטן, משה לארידו, יוסף בן גו, שמואל משיח, יצחק סיכסו, אברהם נ' אלבאז, מרדכי קסטיאל, יצחק ישראל, יצחק חרירה, משה אבוהאנלו, יהודה פווינקינוס, יוסף לארידו, יצחק אביקציץ,



יעקב צרפתי, יצחק בן' האיות, יעקב גרשון, שלמה פיימינטא, משה עטיאה, אהרן אמסלם, משה אביקציץ, יוסף אסוסי, יחייא חליוואה, ע"כ, נתקיימו לנו החתימות הנ"ל וכו' ולראיה ח"ש ד' בשבת כ"ג אייר תקנ"ח וחתומים כהה"ר מרדכי לארדירו וכה"ר יצחק אביקציץ.

ההסכמה הזו, נשלחה מצד המסכימים, וגם מצד חלק מהקהל שהתנגד לה, לפני רבני תיטוואן. ואלה נזרו לבטלה, משני טעמים, האחד, שההסכמה נעשית לאהבת הניגוד והמחלוקת ולא לשם האמת. ושנית, שה"ר משה הכהן החזיק בשחיטה מצד אבותיו מדור אחר דור ומצד עצמו. ובכן, הוכרחו אז קהל טאנגיר, להשמע לדעת רבני תיטוואן, ולא התנהגו עפ"י הסכמה זו, כי אם נשאר הדבר כמאז, שהר"מ כהן לקח חצי שכר הטבחות, וחצי השני חלקו רבי אברהם ואחיו. וכך נמשך הדבר עד שנת תקס"ה, אשר לפי דברי רבני תיטוואן בפסק דינם אז, "קם שוב ר' אברהם לערער נגד הר"מ כהן. והפעם מצא סיוע ועזר מאנשים מבני קהלו אשר קעת גברה ידם, להשחית את נחלתו של הרמ"ך . . . והטעה את דעת בתי הדין בפאס ומכנאס ורבאט (Rabat) בחושבם שמ"ש בהסכמה הנז', שחתומים בה רוב מנין ורוב בנין, הוא אמת, וזה אינו, שהרי חשבון האנשים החתומים בהסכמה הוא שמונה וששים, ומכללם יש איזה אנשים ממחנה מתיטוואן, שהיו מצוים אז בטאנגיר וחתמו עמהם. ולפי מה שאנחנו יודעים ומכירים ביושבי טאנגיר, ס"ח אנשים החתומים הנז', אינם עולים לשליש מיושבי העיר הזכרים לבד מטף. וכיון שכן אין הסכמתם כלום. ואפילו אם יהיו החתומים ההם רוב מנין ורוב בנין כדבריהם, אין הסכמתם הסכמה, לפי שהדבר ידוע שטאנגה היא נחשבת עם בני עירנו כעיר אחת ומימי קדם היא נגדרת ומתנהגת אחר חכמי ודייני עיר תיטוואן. שכך קבלו עליהם הראשונים עליהם ועל זרעם. ובהיות כן, היה להם לקהל טאנגה להמלך עמנו והם לא כן עשו. ואפי' יסכימו רוב הקהל אינה הסכמה. ומה שעלה על לב הקהל שרבי אברהם הוא נחשב לחבר עיר ולא היו צריכים להמלך עמנו, זה אינו, ובפרט לענין כזה שהוא עשה להנאת עצמו . . . . . ובגדון זה הווי להו השוחטים הקודמים מחזקים לפי שעיר טאנגה חשובה ככפר . . . . . כל זה כתבנו להם לק"ק הנז'. וכשהגיעה אגרתנו להם לא הטו אונם וניכר שכוונתם להקניט . . . . . שכל מה שהם עושים הוא דוקא להחניף להרא"ט הנז' שמחניף להם. ונחלקו לשתי כתות בעיר ואש המחלוקת עולה עד לשמים עד שגברה אגרופית של חנופה ואסרה שחיטת הרמ"ך וכת של הרמ"ך הם שנואים ובזוים בעיני כת הרא"ט, אבל עדיין בכ"ז כמו מאה אנשים מחזיקים ביד הרמ"ך. ובראותנו כי לא הטו אונם הק"ק שמצד הרא"ט ולא הרא"ט הנז' אלא עשו להכעיס . . . . . חזרנו וחתמנו אנו כי דינא עם כל הת"ח הרשומים שבמחנה והתרגו לרמ"ך שיש לאל ידו תיכף בלכתו לעירו הנז' לרוץ לבית השחיטה ולשחוט . . . . . וליטול חלק בראש, המחצה, כמו שזיכו לו אבותיו. ואם לא ירצה הרא"ט לקבל עליו את הדין באלמות וגזל . . . . . שעברנו בכח ביד כל קרקע וחצר שיש לו להרא"ט להפרע הרמ"ך מהם כל זמן שירצה . . . . . בראותנו השעה צריכה לכך שגלוי וידוע לפנינו

האיש ואת שיחו ובני קהלו הנספחים לו להחניפו . . . ולנו להודיע לבתי הדינים שאל יודקו לדברי הרא"ט וסיעתו כי אנו רואים מקרוב . . . וחתומים פה בתיטוואן בחשון תקס"ו. מנחם נהון, משה הלוי, משה אבן צור.  
עם רבני תיטוואן אלה הסכימו גם רבני פאס, ואמנם רבני רבאט, ומכנאס, ושאר רבני המערב, הסכימו עם רא"ט וסיעתו, ובתוך דבריהם, מוצאים אנו הדברים האלה.

מפני שהרא"ט גדול בחכמה, והרמ"ך צריך לו, וכן כל חכמי המערב הסכימו להסכמת קהל טאנגה ואחרי רבים להטות . . . ואף לפי דעתם של רבני תיטוואן שיהיו נגדרים אחריהם, לא מצד החיוב כ"א מרצונם הפשוט, ויכולים לחזור בהם. ואפילו היתה הסכמה מקובלת עליהם ועל זרעם שיהיו נגדרים אחר חכמי תיטוואן. זהו בזמן שלא היו להם על מה לסמוך שאז מוכרחים לזה, אבל עתה שיש להם סמוך ונראה הוי כאלו פירשו בפירוש לסמוך על הסמוך ונראה ולא על הסמוך ואינו נראה . . . וכל החולק על הרא"ט הרי הוא . . . ורק אהבת הניצוח גברה עליהם הפעם . . . ואעפ"י שהרמ"ך יפה כחו יותר מאביו לא מפני שהעמידוהו לאביו במקום שאין אנשים, יעמידו לבנו במקום שיש אנשים . . . ואז היה השכר של השחיטה מועט באותו זמן שנתרוקנה העיר מחמת המגפה לתפ"ץ ולא היו שוחטים בשבוע כ"א שור או שה . . . ומכיון שהרמ"ך מטיל קנאה ושנאה בין החכמים בזה לבד יכולים להעבירו . . . ועוד שנגרם להביא דינם של ישראל בערכאות של גוים . . . ועל קהל טאנגיר מוטל להתאזר בכל עוז להקים דגל התורה, אל ירך לבבכם ואל יבהלו אותכם החכמים האומרים היפך, שהם בעצמם חייבים להטות שכמם לדברי הרוב. וכל הנוגע בחכם הרא"ט ומרים ראש לדבר סרה ומכ"ש המחרפו ומתרים בדברי גרופין כאשר ראינו בקבלת עדות אחת, ראוי לגדעם ולרדוף אחריהם. וחתומים רבני הערים הנזכרות.

אלה הם קצות דברי הריב שמצאתי כתוב בזה. ויודעים הננו שאח"כ השלימו שני הצדדים ביניהם, וחזקת השחיטה נשארה בידי שתי המשפחות טולידאנו, וכהן, צאצאי שני החכמים בעלי הריב ההם. וככה החזקה הזאת נהגה דורות מספר עד השנים האחרונות, שלמרות שבני המשפחות השתים אלה, לא היו הם השוחטים, ועזבו את השחיטה מאליהם, בכל זאת נשאר להם הזכות הזאת לקחת את הראש" מכל הבהמות הנשחטות, דבר שנחשב בעיני שתי המשפחות האלה לכבוד מסורתי ולחזקה יחוסית, ואף שרבים מבני המשפחה טולידאנו בטאנגיר, התעשרו, ואחדים גם נעשו למיליונרים, הם קבלו בכבוד ובחביבות את חלקם מהראש של הבהמה, בתור „זכר למקדש" לזכרון מורשת אבותיהם. ורק מזה שנים אחדות, בראות ועד העדה כי מחיר ראשי הבהמות עולה לסכום הגון שיכול להועיל לקופת הקהלה, נתפשרו עם בני שתי המשפחות ההם, שהואילו לותר על חזקתם זו, לטובת הקהלה.

הנה כן, ממרצת דברי הריב הנזכר, נדע, שהמתישבים שנספחו אז לקהל הטאנגירי, הגדילו את מספר הקהלה וחשיבותה, גם הנהלתו של הדיין הנזכר

רבי אברהם טולידאנו, השפיעה לא מעט בזה. נוסע אחד בן-הדור ההוא רבי יעקב אלכבאש מדרום מארקו שחבר ס' אורחות צדיקים,<sup>20</sup> תיאר מה שראה במסעותיו. בא לטאנניר בערך שנת תק"ע, וחבר שיר לכבודו של ר"א טולידאנו הנזכר, שבו נמצאו שבחים כאלה. מבחר העדה . . . כל דורו ידן בצדק, ישר ומחזיק כל בדק . . . יום יום כל בני מחזקים, מבית מדרשו לא זזים, וגם הוא סובר הרזים . . . ,<sup>20a</sup> גם בבתי הכנסיות בכל שבת, בין ה"השכבות" של קהל טאנניר יתואר כרב גדול ומקובל וחכם הרזים. הוא נפטר בשנת תקצ"ג. ובית-הכנסת שלו וגם קבורתו נודעים ונערצים עד היום בעיר זו. הוא השאיר אחריו ארבעה בנים, משה, אהרן, שמואל, ופינחס. אך לא היה ביניהם אף אחד שימלא את מקומו. ואמנם, אחיו רבי יוסף, הנזכר מעלה, הוליד שני בנים, את רבי אברהם ורבי משה, חכמים וחסידים, ולהם היו ג' בנים חכמים. אכן, לא שמשו ברבנות, רק שוחטים ואיזה תפקידים צבוריים, ומאלה בכלל, נפוצה המשפחה זו בעיר, ומהם נושבו בנויורק, ובפנאמה, וברזיליין.

בשנת תקצ"ד קרה בטאנניר המקרה הידוע של הנערה סול למשפחת חנוויל, נערה שהצטיינה מאד ביופיה. ובהיותה כבת י"ג פרץ סכסוך בין קרוביה שכל אחד מהם חפץ לקחתה לו לאשה. ודבר הסכסוך ההוא הגיע עד לשולטן מולאי עבד ארחמן, שבראותו אותה, חשק בה, ויציע לה להנשא אליו. ואמנם היא מיאנה בזה. ולסוף נהרגה ונקברה בפאס.<sup>20b</sup> הספור הזה מסופר במליצות ובחרוזים באספנוילית וערבית ובעברית. ויהודי טאנניר ויתר ערי המערב, ישוררו בס. גם מחזות אחדות חוברו על זה.

בשנת תר"ד (1844) נתקפה טאנניר ע"י הפרינץ הצרפתי De Joinville ביריות מצד הים. והיהודים אז היו בפחד ומורא. זה היה ביום ט"ב שנשמע הדבר בעיר כי אניות המלחמה יבואו בו ביום. ורחוב היהודים שקרוב לחוף ביותר, נמוג מפחד. אך האניות נראו רק עד יום האחד ועשרים באב. רבים שברחו מפחד היריות נפלו בידי השכנים הישמעאלים שהצרו להם, ועל אחדים מהם עברו כדורי התותחים. אך לא הזיקו אותם. ואמנם אחרי הצהרים נפסקו היריות, והבורחים כלם חזרו גם הם בשלום. לזכר המקרה הזה נקבע אצל יהודי טאנניר יום פורים ביום כ"א אב מדי שנה בשנה, ונקרא פורים די לאס בומבאס,<sup>21</sup> ובו קורים מגלה שבה כתוב זכרון הנס הזה.

מני אז גדלה התענינות האירופים בטאנניר. קונסולי ממשלות אירופה העבירו את משרדיהם, לעיר זו. וגם הדבר הזה סמן בקורות הקהלה היהודית הטאננירית שינוי נמרץ ותקופה חדשה. ותחת היותה בזמן הקודם קהלת-כפר,

<sup>20</sup> כתב יד אצלי.

<sup>20a</sup> גם נמצאת הסכמה ממנו בס' מלאכת הקדש, ליוורנו תקס"ב, ואיזה שו"ת בשמו בס' תקפו של יוסף מר"י אלמאליח, ליוורנו תק . . . סי' צ"ו. וס' ויאמר יצחק ח"א סוף סי' קל"ה.

<sup>20b</sup> ראה נר המערב צד 181.

<sup>21</sup> באינצקלופדיא אוצר ישראל אות פורים. ערב פורים זה ופורים ב' אלול הנזכר למעלה לזכר מלחמת שנת של"ח, וחשבם אחד, ולא כן הדבר, אלא שנים הם.

כמו שזכרנו מעלה, נהיתה אז לקהלה היותר חשובה ובעלת השפעה בין קהלות יהודי מארוקו. ותהי זמן מה באת-כח היהדות המארוקאית כלה. אמנם כן, גם בתקופה זו עברו בקהלת טאניר עצמה, מאורעות מעציבים, ולא פעם היו מקרים של הרוגים יהודים בידי אנשי-רשע, אך, בכל זאת, על הרוב יכלה **אז** הקהלה לעצור בעד הרעה, להגן על עצמה ועל יהודי ערים אחרות שפנו לעזרתה. די לעבור בסקירה על העתונות הכללית והיהודית של משך חצי יובל השנים, האחרון, של המאה התשע עשרה, על הרפורמים של נסיעות השר משה מונטיפיורי במארוקו, ושל קונסולי-חוץ, והאליאנס ישראלית בפאריז. וראינו ששם של ראשי הקהלה הטאנירית, נזכר במקרים רבים של השתדלויות לטובת יהודי מארוקו. ובשנת תרכ"ד נהל ועד העדה משא ומתן דיפלומטי עם ממשלות חוץ להגנת יהודי מארוקו. גדולי העדה הצטיינו מאז בחום לבם ומסירותם לטובת אחיהם אלה. וישתמשו בכל השפעתם בזה וידעו איך לנהל פוליטיקה. בשנת תרמ"א הגישו לציר האיטלקי Scovasso כלי-כסף מעשה אומנות יפה שנערך במחיר 400 ל"ש ועליו כתוב בעברית הפסוק, כי היית עזרתה לי ובצל כנפיך ארנן. בין האנשים שהצטיינו **אז** בקרב העדה יש להזכיר, את האדונים משה פריינטי, משה נהון, ואחדים מבני המשפחות, אבן צור, אצאיג, אביקצין, פינטו, בן-שימול, לארידו, בן עולייל, דלאך, רבים מהם נמנו לפקידים ומתורגמנים בבתי הקונסולים, ולראשי בתי מסחר ובנקים בעיר, ואחדים קבלו אותות-כבוד מאת ממשלות אירופא.

הרבנים שנהלו את העדה **אז**, היו רבי משה בן גו, רבי משה פימיינטא, ור' מרדכי בן-גו. האחרון נשאר במשרתו זו עד הזמן האחרון, וכששים שנה כהן ברבנות ויפעל הרבה לטובת העדה. וכלם השאירו אחריהם איזה כתבי-יד בשאלות-דינים ודרשות. גם מהמשפחה טולידאנו היו הרבנים, רבי משה טולידאנו, שיסד „בית הכנסת אורחים" של הקהלה בטאניר. רבי חביב טולידאנו, ורבי יעקב טולידאנו שנמנה אח"כ לדיין בעיר ליסבון (Lisbon) עד שנת 1899.<sup>22</sup> הרבה עזר להתפתחות הקהלה בטאניר, ביחוד בחמשים השנים האחרונות, בית הספר של האליינס ישראלית שנוסד בעיר זו בשנת תרכ"ד. בית הספר השני אחרי בית ספרה הראשון בעיר תיטוואן הקרובה. שני בתי הספר הראשונים האלה של החברה הנו', חנכו וגדלו דור שלם של צעירים אינטלגנטים, מלאי רוח בינה ורגש יהדות, שעל ידם נהיו שתי הקהלות האלה, היותר מפותחות ונאורות שבין קהלות יהודי מארוקו. אין לכתור, שמצד אחד, גרם החנוך הזה במקצת, להגירת חלק הגון מבני שתי הקהלות האלה לאירופא ואמריקה, ובייחוד לברזיליה וארגנטינה, ששם נשתקעו רבים מיהודי טאניר ותיטוואן במשך חמשים השנים האלה. ועל ידי זה הופחת מספרם של שתי הקהלות האלה לשליש או יותר, ממספרם הקודם, וקהלת טאניר שמנתה לפני שלשים שנה, בערך שנים עשר אלף נפש, עמדה עתה על מספר שמנת אלפים או שבעת אלפים. ואמנם, מצד

<sup>22</sup> ראה אינצקלופדיה אוצר ישראל, אות ליסבון.

אחר, הביא החנוך האליינסי קדמה רבה בשתי הקהלות הנזכרות, וקהלת העדה הטאגנירית סודרה באופן מצוין ומוזהיר.

והסדר וההנהגה ששררו בקהלה זו, עזרו לה הרבה להשתמש גם בהמשטר המדיני המיוחד שנוצר בטאגניר מזה לא כבר, טאגניר נהיתה כידוע לעיר בין-לאומית [אינטרנציונאלית], והקהלה היהודית שבה, נמצאה אז מוכנה לדרוש איזה זכויות מיוחדות המגיעות לה בתור אומה בעלת-ערך והשפעה בעיר זו, זכויות שאין למצוא דוגמתם גם בקהלות היותר נאורות. ולמרות מספרם המועט של יהודי טאגניר ביחס לשאר החושבים, יש להם בכל זאת השפעה ניכרת בהנהלת השלטון של העיר, נוסף על השפעתם המסחרית. בין מוסדי הקהלה יש להזכיר ביחוד את משרד הרבנות, שנוסד בשנת 1925, ונחמך ע"י הממשלה הצרפתית. ואשר במשך ארבע שנים הראשונות ליסודו, נמנית בתור אחד משלש חברי המשרד בבי"ד. לבית הדין הזה יש תקנון מיוחד המאושר מטעם הממשלה המורוקאית והחסות הצרפתית. עפ"י התקנון ההוא, הנהלת עניני הבי"ד צריכים להיות בעברית, יש לו הכח להטיל מסים לטובת הקהלה, לפקח על בחירות המועצה של העדה, להטפל לדון בעניני אישות, ירושות, צוואות, והחלטותיו יוצאו לפועל ע"י הממשלה המקומית.

שאלת טאגניר, שלא פעם שמשה לסלע-המחלוקת בין הממשלות שעל חופי ים התיכון, בהיותה גם העיר שעל יד מיצר ניברלט, תתעורר בלי ספק עוד, פעם כפעם, כל זמן שהיא תחת המשטר הבין-לאומי הקיים בה כעת. ועל כן, חשוב מאד, כמו שאמרתי כבר, להבליט את הערך ההיסטורי שיש גם להקהלה היהודית בעיר זו, כפי שהוכחנו במאמרנו הנכחי.



## THE KOL NIDRE TUNE

A. Z. IDELSOHN, Hebrew Union College, Cincinnati, Ohio

THE tune of the Kol Nidre text became one of the most outstanding melodies of the Ashkenazic Synagogue. While the text, a mere renouncement of vows, is devoid of religious emotions, its musical setting is generally accepted as an expression of the deep religious feelings which move the Jewish heart on the eve of the Day of Atonement. There is hardly any other traditional Jewish tune that has attracted so much attention from the composers of the last century. Innumerable are the arrangements for voice with piano, organ, or violin accompaniment and violoncello obligato. We have the exalted melody prepared for choir and small orchestra. And last but not least is the concerto by Max Bruch. In the first bars of Beethoven's C# minor quartet, the opening theme of Kol Nidre is recognizable. Thus, has the music world come to consider this the most characteristic tune of the Synagogue.

It is, therefore, quite natural that the tune should have aroused much interest concerning its origin and its composer. And many writers have voiced widely varying opinions. Caught by the introductory motive, some believed that they found traces of gypsy music. Others ventured to declare the music's birthplace among the Marranos, in Spain, because to their ears the tune seems to express such fear as would suit the state of mind of the Marranos, escaping the watchful eye of the Inquisition, assembled in hidden cellars on the eve of Yom Kippur to pour out their contrite spirit to the God of their fathers. Others thought the tune a derivation of Byzantine church-song.

Before we proceed with the investigation of the tune, we shall make a brief comment on the text. The oldest known reference to the text dates back to the 9th century. Natronai Gaon, who mentions Kol Nidre, says that it was not customary to recite it in the Babylonian academies nor in any place in Babylonia, but that he had heard that there were countries where it was



Another textual correction was made by Meir Rothenburg. He omitted the words "יהא רעוא ד" and "ככתוב",<sup>6</sup> and inserted "דאיתחרטנא בהן".<sup>7</sup> The Kol Nidre is recited three successive times. The Talmud prescribes that every Rabbinic announcement be made three times.<sup>8</sup> The Aleppo ritual provides that Kol Nidre be recited seven times. We see that the recitation of the Kol Nidre was not originally customary in Babylonia and Palestine. In those countries where it became customary, both words and meaning underwent revisions. Only toward the end of the 13th century did the text take final shape.

The protests that became loud after the beginning of the last century led some Reform congregations to eliminate the Kol Nidre text entirely.<sup>9</sup> Others composed new texts or, following the old Palestinian custom, substituted for it Psalm 130. A. Geiger in his prayer-book (1st ed.), the editors of the Hamburg reform prayer-book (beginning with the 4th ed.) and the *Gebetbuch für das ganze Jahr* (Frankfurt a/M, 1929) edited by Seligman, Elbogen and Vogelstein, gave texts which utilize, for traditional flavor, those key phrases of Kol Nidre familiar to every Jewish tongue, yet voice not an abnegation of vows but the compelling emotions of the Jew on Yom Kippur eve.

So far as is known there is no record as to whether Kol Nidre was originally chanted or simply read. The only reference to voice is that in M. Vitry (p. 388) which prescribes the raising of the voice with each repetition of the text. The first source that mentions a musical rendition of Kol Nidre is Maharil: "אכן יאריך בו בנינונים", "Indeed, he (the precentor) shall prolong it with song until night." This statement suggests rather improvised chanting than a fixed melody. Around 1600 Mordecai Jaffe of Prague speaks of the Hazzanim as using a certain fixed tune which, because of its connection with the text, was a stumbling block to any change of that text.<sup>10</sup> From M. Jaffe's emphasis

<sup>6</sup> Abudraham l. c.

<sup>7</sup> Tashbez, ¶ 134.

<sup>8</sup> M. Menahoth X, 3, b. Men. 65a.

<sup>9</sup> The Rabbinical Conference at Brunswick in 1844 decided that the Kol Nidre text is not essential and should be abolished.

<sup>10</sup> Levush, § 619, Prague 1701. The Hebrew text is given in my essay "Song and Singers, etc." in the *H.U.C. Jubilee Volume* 1925, p. 406.

כל לשון כל נדרי שמנגנים בו עכשו החונים, "Kol Nidre that the Hazzanim now sing," it may be deduced that this was still considered an innovation in his time. He also praises the quality of the tune ואין לו שום פרוש אלא הנגינה בלבר which means that already at his time the tune was highly regarded. Since, as we are led to believe, there was no fixed tune as yet known during Maharil's time (1356-1427) while at the time of Jaffe (1530-1612) the Kol Nidre tune was established though apparently new, we may tentatively posit that the tune was created between the middle of the 15th and the middle of the 16th centuries. The assumption that the statement of Jaffe indicates that the tune was composed in Prague will be refuted later on, by the very nature of the tune.

The literary sources are vague and unconvincing. In order to determine the structure, time, and birthplace of the tune we must turn to a more reliable source, namely, to the tune itself.

In the first place we must know and bear in mind the fact that the Kol Nidre tune is utterly unknown to all but the Ashkenazim, i.e., the adherents of the tradition and the ritual of the German Jews.<sup>11</sup> Thus is evidenced the fallacy of the assumption that the Spanish Jews created the tune. Nowhere do their descendants in the Orient or in Europe use this melody supposed by some to be reminiscent of their suffering as Marranos.

But aside from all arguments based on external evidence the tune itself, by its elements and style, testifies to its being a product of the Ashkenazic Synagogue, created in Southern Germany. Musical science teaches us that a musical selection dates and places its own origin by its elements and its form, just as art objects, antique and modern, relate their own history and explain their birthplace and the period in which they were created. So also does a tune, be it folk, popular or art music, bear the stamp of a certain period, being constructed out of musical elements belonging to a certain people in a certain country. Thus we can recognize a Slavic, German, Gypsy, Tartaric, or Spanish tune. A Gregorian chant will easily be

<sup>11</sup> The Oriental and Sephardic Jews chant Kol Nidre in the Seliḥa or Tefilla modes, comp. F. Consolo, *Libro dei Canto d'Israele*, No. 346; A. Z. Idelsohn, *Thesaurus of Hebrew Oriental Melodies*, vol. I, No. 114; vol. III, No. 79; vol. IV, No. 259; and vol. V, No. 208.

distinguished from a Methodist hymn, and a tune by Schubert from an American jazz hit. But even within the music of a people creations of different periods can easily be recognized. Nobody who has any knowledge of music will take a piece of music by Richard Strauss as having been composed in the time of Bach, or the composer of a Minnesong as having been a contemporary of Beethoven, just as nobody will be so fooled as to believe that the "Rhapsodie in Blue" employs the same elements and style as a piece of music by Henry Purcell. The mere hearing of certain music is sufficient for the determination of its elements and style, of its people and its period. Where music is less definitely of a type, or where more detailed differentiations are sought, we must resort to careful scientific analyses and comparisons. The same elements of time and geography hold true with the Song of the Synagogue. Its oldest stratum is the Biblical modes. These though common to all Jewish groups of the Diaspora, have in the course of time developed modifications, in each group, which stamp them with local features, so that an untrained musician will fail to recognize immediately the common elements of the chants of the various groups. But everybody will at once recognize them as being of a particular and the same musical type.

Like the other Jewish communities, so the Ashkenazim created during their stay in Germany Synagogue songs of different periods. To one of these periods belong the so-called "Missinai" songs.<sup>12</sup> They all have the same style and are constructed to a certain extent of the same elements. To this groups of songs belong: Alenu, Aboth, Hammelech, Kaddish, Wehakkohanim, etc., and the tune of Kol Nidre. In earlier discussions I have proved the similarity of the elements of these songs as well as their common style.<sup>13</sup> Here we must confine our attention to the Kol Nidre tune.

<sup>12</sup> The name "Missinai" is nowhere recorded in connection with songs. *Sefer Hasidim*, ed. Freimann, Frankfurt a/M 1924, § 817 applies this term to the Biblical modes.

<sup>13</sup> In my essay "Der Missinaigesang der deutschen Synagoge," *Z.f. M.* (Leipzig 1926) pp. 449-472; *Jewish Music*, etc. (New York 1929), chap. VIII; *Der jüdische Tempelgesang*, in Adler's *Handbuch d. Musikgeschichte*, 2nd ed. p. 149ff.



The oldest musical notation of the Kol Nidre thus far discovered is that by Ahron Beer, cantor in Berlin, 1765–1821. He included it in a collection of Synagogal songs, about 1765.<sup>14</sup> His version contains the essential elements of the tune as it is known up to the present. We give Beer's version as No. 1, No. 2 is the version that S. Naumbourg copied in 1840 from L. Sanger, cantor in Munich, and published with slight variants in his *Recueil de Chants Religieux* (Paris 1874). No. 3 is the form into which Lewandowski shaped the tune in his *Kol Rinnah* (Berlin 1871, No. 107). His version became the standard form of the tune in the German Synagogue. No. 4 is the version used in Eastern Europe, which Abraham Baer gave with some variants in his *Baal Tfillah* (1877), No. 1301.

By comparing the four versions we see that the first part of the tune, designated (a) is alike in all, while in the parts (b) and (c) marked variants are noticeable. Nearest to part (b) in Ahron Beer's version are Lewandowski's (b) (bI) and (cI). However, the (b) parts of all versions and the (c) of the first three have several elements in common. Those elements peculiar to each version are: in No. 1 the part marked I, in No. 2 the parts I, II and III, and in No. 4 the part (c). The Kol Nidre motives are marked with numbers and presented in parallel listings:

in No. 1, 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15.

in No. 2, 1. 2. 3. 4. 5. 6. 7. 8. — 10. 11. 12. — 14. 15.

in No. 3, 1. — 3. 4. 5. 6. 7. 8. — 10. — — 13. 14. 15.

in No. 4, 1. 2. 3. — — — 7. — — 10. 11. 12. — — — 16(?).

From this chart we see that No. 4 has only seven motives (1, 2, 3, 7, 10, 11, 12) in common with the other versions. On the other hand, it has elements which are not employed in the other versions. Some motives are employed several times.

The versions vary also in the order in which their component motives are arranged. The reason for this sort of shifting light from the same color material grows out of the type of song to which this tune belongs. We have in the Synagogue Song, the modal form, which consists of a number of motives that can be

<sup>14</sup> Of this MS. an excerpt was made by E. Birnbaum, which is found in the H.U.C. Library, published in Vol. VI of my *Thesaurus*.

fused together to a melodic line, in an improvised manner, according to the momentary inspiration of the singer. On the other hand, we find fixed melodies with a stable structure, which cannot be changed. There are also tunes which retained the modal character and to these belong the "Missinai" songs. They have a fixed beginning and ending and have certain motives of their own which give them original characteristics. But within the frame of the song, these motives run fluid in the interpretation of each singer. In other words, each singer, while remaining faithful to the elements (or motives) peculiar to the tune, expresses his own personality through the order in which he uses them. In some localities nevertheless, the succession of the motives of a tune became definite; and that particular order, acquired—in its home—the sanction of "tradition". Hence the complaint of M. Jaffe of Prague that he could not correct the text of Kol Nidre, due to the fixed shape the tune had acquired among the Ḥazzanim in Prague. The partial freedom for the singer in this type of song explains the existence of the variants of the tunes in various localities.

Some motives are employed simultaneously in several "Missinai" tunes. The opening motive of Kol Nidre is found also as an opening to "Hammelech." Motive 1 is found in "Yotzer 'or ubore ḥoshech" and in "Alenu," motive 4 (in No. 1) in "Kaddish" (be'olma), motive 5 in "Aboth" and "Alenu," and motive 16 is employed as concluding motive in "Alenu" and "Aboth" (cf. No. 5b). This last-named motive was retained in the Kol Nidre tune only in the East European version.<sup>15</sup>

Thus is this tune related to the other "Missinai" songs not only in its form and structure but also in its elements. The same loose form and the predominance of the motives as well as the manner in which the same motives are employed in various tunes was common in the Minnesong which flourished in Germany during the 11th–15th centuries. And not only in form were the "Missinai" tunes influenced by the Minnesong, but also in elements some of which were borrowed and incorporated. Just as the Minnesinger built his music out of his folk-song and familiar

<sup>15</sup> Comp. *J.E.* vol. VII, p. 546.

Gregorian chant,<sup>16</sup> so Synagogue composers created their melodies out of their musical fund: their Biblical and Prayer modes and snatches of songs or styles from their Gentile environment. The motive 16 in version 4 which is found also in "Alenu" and "Aboth," as mentioned above, is a frequent closing motive in the Minnesong,<sup>17</sup> (cf. No. 5b) the fact that it has been omitted from the German version of Kol Nidre (Nos. 1-3) notwithstanding. Since in Ahron Beer's writing of the "Alenu" and "Aboth" this motive is still employed,<sup>18</sup> it seems that the omission occurred in the 18th century.

Some elements of the Kol Nidre such as motives 2, 7 and 11 show even the influence of the so-called *ars nova*, of the 16th-17th centuries. Rooted in the Biblical modes are motives 1, 3, 5, 12, 13, 14, obviously imitations of familiar musical figures of Biblical reading. Motives 1-2 are variations of *darga-tebir*, 5 from *etnatha*, 13 from *sof pasuq*, and 14 from *rebia*<sup>19</sup>—all, of the Prophetic mode, while motive 3 seems to be derived from the *tebir* of the Esther Mode.

The reason for this drawing of the musical material so largely from the mode of the Prophets would seem to lie in the nature of that mode with its minor scale, and its pleading and consoling character so suitable to this occasion.

These motives are all according to the Ashkenazic tradition, as they are used in southwestern Germany,<sup>20</sup> differing in several details from the East-European tradition. The composer of the tune would seem to have lived in Central Europe and have been reared and educated in the Southwestern tradition. This placement of the composer is further determined by the evident influence upon him of the Minnesong which flourished in southern Germany.

<sup>16</sup> Cf. H. Riemann, *Handbuch d. Musikgesch.* vol. III, p. 232ff.; A. W. Ambros, *Musikgeschichte*, vol. III, 3 ed., p. 271ff.

<sup>17</sup> See *Die Jenaer Handschrift* ed. E. Bernoulli and F. Saran (Leipzig 1901), pp. 8-9, 40, 69.

<sup>18</sup> See *Jewish Music*, etc. pp. 148, 150.

<sup>19</sup> See illustrations in No. 5.

<sup>20</sup> Comp. *J.E.* vol. III cantillation pp. 540-545; S. Scheuermann, *Die Gottesdienstl. Gesänge d. Israeliten*, Frankfurt a/M 1912, p. 88.

In summary: The tune of Kol Nidre shows direct influence of the Minnesong. It is composed in great part of motives drawn from the Biblical mode of the Prophets. The mere fact that the mode of the Prophets is employed according to the Ashkenazic tradition and that the *etnahta* motive<sup>21</sup> is used according to South German custom, (cf. No. 5a) determines the locality of the composer as Southern Germany, while the influence of the Minnesong sets the creation into the period of the Minnesong probably the later part of the period, since Maharil did not know of a set melody for Kol Nidre.

The composer did not intend apparently to voice the literal meaning of the text; he rather wanted to give musical expression to the intention of the text, to the emotions of the Jew as he approaches God on the most solemn Day of Atonement. In the first part of the tune he expresses his contrition and his plea for forgiveness. In the second part he voices his hope in the mercy of God; and finishes in the third part with strong confidence that God will pardon him and inscribe him in the Book of Life.

## Saadia

כל נדרים ואיסורים ושבועות  
וקיומין וחרמין, שנדרנו ושארנו  
ושחרמנו ושבוענו ושקיימנו על נפשנו  
בשבועה, מיום הכפורים שעבר עד  
יום הכפורים הזה הבא עלינו, בכולם  
חזרנו ובאנו לפני אבינו שבשמים, אם  
נדר נדרנו אין כאן נדר, ואם שבועה  
נשבוענו אין כאן שבועה, אם קיום  
קיימנו אין כאן קיום, בטל הנדר  
מעיקרו, בטלה השבועה מעיקרה, בטל  
הקיום מעיקרו, אין כאן לא נדר, ולא  
איסור ולא חרם ולא שבועה ולא קיום,  
יש כאן מחילה וסליחה וכפרה, ככתוב  
בתורתך ונסלח . . .

follows Amram

## Amram

כל נדרים ואיסורים ושבועות  
וקיומין וחרמין, שנדרנו ושארנו  
ושחרמנו ושבוענו ושקיימנו על נפשנו  
בשבועה, מיום הכפורים שעבר עד  
יום הכפורים הזה הבא עלינו, בכולם  
חזרנו ובאנו לפני אבינו שבשמים, אם  
נדר נדרנו אין כאן נדר, ואם שבועה  
נשבוענו אין כאן שבועה, אם קיום  
קיימנו אין כאן קיום, בטל הנדר  
מעיקרו, בטלה השבועה מעיקרה, בטל  
הקיום מעיקרו, אין כאן לא נדר, ולא  
איסור ולא חרם ולא שבועה ולא קיום,  
יש כאן מחילה וסליחה וכפרה, ככתוב  
בתורתך ונסלח . . .

<sup>21</sup> Comp. the difference between the German and the East-European versions of the *etnahta* motive. The latter version is best given in *Liedersammelbuch* etc. ed. Juwal, Berlin No. 87.

## Aleppo

כל נדרי וכל אסרי וכל חרמי  
 וכל שבועי דנדרנא ודאסרנא ודחרמנא  
 ודאשתבענא מיום כפורים שעבר עד  
 יום כפורים הזה כולם חזרנו בהם  
 ובאנו לפני אבינו שבשמים, כל נדרא  
 דנדרנא לא יהא נדר, וכל אסר דאסרנא  
 לא יהא אסר וכל חרם דחרמנא  
 לא יהא חרם. וכל שבועה דאשתבענא  
 לא תהא שבועה, כדכתיב ונסלח . . .  
 (וחזרין ואומרין זה שבעה פעמים  
 ואח"כ אומרים:) כל נדרי וכל אסרי  
 וכל חרמי דנדור ונאסור ונשתבע  
 ונחרים מיום הכפורים הזה עד יום  
 הכפורים הבא כלם יהיו בטלים  
 ומבטלים לא שרירין ולא קיימין  
 כדכתיב ונסלח . . . (ואומרים זה  
 גם כן שבעה פעמים).

## Ashkenazic (Heidenheim)

כל נדרי ואסרי וחרמי וקונמי  
 וכינויי וקינוסי ושבועות, דנדרנא  
 ודאשתבענא, ודאחרמנא ודאסרנא על  
 נפשחנא,\* מיום כפורים זה עד יום  
 כפורים הבא עלינו לטובה, כלהון  
 אחרטנא בהון, כלהון יהון שרן,  
 שביקין, שביתין, בטלים ומבטלין, לא  
 שרירין ולא קיימין, נדרנא לא נדרי  
 ושבועתנא לא שבועות,\*\* ונסלח . . .

## Hamburg Prayer-book

כל נדרי בני ישראל אשר המה  
 נודרים לך אבינו לשוב אליך בכל  
 לבבם, ללכת בדרכי תורתך באורח  
 צדקה ומשפט, מיום כפורים זה עד  
 יום כפורים הבא עלינו לטובה. כלם

## Ital.

כל נדרים . . . אם הקדש הקדשנו  
 אין כאן הקדש . . . בטל ההקדש  
 מעקרו . . .

## Sephardic (London)

כל נדרי ואסרי ושבועי וחרמי  
 ונדויי וקונמי וקונחי וקונסי די נדרנא  
 ודי אשתבענא ודי חרמנא ודי נדינא  
 ודי אסרנא על נפשחנא מיום כפורים  
 שעבר עד יום הכפורים הזה, שבא  
 עלינו לשלום. נדרנא לא נדרי ושבועתנא  
 לא שבועי וחרמנא לא חרמי ואסרנא  
 לא אסרי. כלהון יהון שביתין ושביקין  
 לא שרירין ולא קיימין, ונסלח . . .

## Sephardic Oriental

כל נדרי . . . מיום הכפורים  
 שעבר עד יום הכפורים הזה שבא  
 עלינו לשלום (ומיום הכפורים הזה  
 עד יום הכפורים אחר שיבוא עלינו  
 לשלום) . . . ואסרנא לא אסרי, כלהון  
 אתחרטנא בהון יהא רעוא די יהון  
 שביתין . . .

## A. Geiger's Prayer-book 1854

כל פשעי ופשעי הקהל הזה ופשעי  
 כל עמך ישראל מהם והעבירים מנגד  
 עיניך, וטהר לבנו מיום כפורים זה  
 עד יום כפורים הבא עלינו לטובה.  
 לבנו נשבר, רוחנו נדכא, מעשים אין



אתנו, בצדקתך נשעננו, נא רחום אל  
תעזבנו כי עפר אנחנו, כעוונותינו  
נא אל תגמול.  
ותן בלבבם לאהבה וליראה את שמך  
הגדול והנורא.

## Sefer Maḥkim

## Gebetbuch 1929

\*... מיום כיפור שעבר עד יום  
כיפור הבא עלינו לטובה...  
\*\*... וחשובין כחרס הנשבר שאין  
לו תקנה ככתוב ונסלח...

כל נדרי בני ישראל אשר נדרו  
לך היום ה' אלהינו ואלהי אבותינו  
באמת ובתמים, קולנו אנא שמע נא,  
ודוינו ותחנונינו קבל ברצון, מיום  
כפורים זה עד יום כפרים הבא עלינו  
לטובה. אלהינו לך חטאנו הרע בעיניך  
עשינו. סלח־נא מחל־נא עבר־נא על  
פשע חנון ורחום ומרבה לסלח. אליך  
נשואות עינינו, בטחוננו בך תלינו, עשה  
עמנו כאשר דברת.

2

Ahron Beer, 1765

1. <sup>(a)</sup>

1. tr. tr.

2.

3.

tr.

4. (b) 5.

6.

7.

8. (b)

9.

15. Fine 10. (c)

3

Musical notation for measures 11 through 14. Measure 11 begins with a treble clef, a key signature of one flat (B-flat), and a common time signature (C). The melody consists of eighth and sixteenth notes. Measure 12 continues the melody. Measure 13 features a repeat sign and a first ending bracket labeled 'I'. Measure 14 concludes with a double bar line and the instruction 'D.S. al Fine.'.

S. Naumbourg, 1840-74

Musical notation for measures 15 through 24. Measure 15 is marked with '(a)' and '2.'. It begins with a treble clef, a key signature of one flat, and a common time signature. The melody includes triplets and rests. Measure 16 continues the melody. Measure 17 features a first ending bracket labeled '1.'. Measure 18 continues the melody. Measure 19 features a second ending bracket labeled '2.'. Measure 20 features a third ending bracket labeled '3.'. Measure 21 continues the melody. Measure 22 features a first ending bracket labeled 'I (b)'. Measure 23 continues the melody. Measure 24 concludes with a double bar line and a fermata.

4

II

(c) 10.

11. 12. 10.

11. 12. 14.

4. 5. 6.

7.

III

15.

L. Lewandowski, 1871

(a) opening

3.

1. darga tebir Prophets

3. darga tebir Es-

ther: sequence opening

(b) 4. ethnahta, Prophets 5. 6.

7. (c) 10.

10. 3. 3. 3. darga tebir,

Esther 13. pesiq sof pasuq, Prophets 14. rebia Prophets

(b) I 4. 5. etnahta Prophets 6.

15. 10. (c) I 3. 3.

darga tebir Esther 13. pesiq sof pasuq Prophets



6

6. (c) II. 7. Minnesong and ars nova

8. 15.

According to Abrahams Baer, 1877

(a)

4. 1. 2. 3.

8: 10. (c) 11. 12.

(b) (c)

16. 10.

16.

(c) I

7.

16.

*D.S. al Fine*

Detailed description: This block contains the first five staves of the musical score. The first staff begins with a treble clef, a key signature of one flat (B-flat), and a common time signature. It features a melody with a triplet of eighth notes. The second staff continues the melody and includes a measure with a whole rest, followed by a section marked '(c) I'. The third staff continues the melody. The fourth staff begins with a measure marked '7.' and includes another triplet. The fifth staff continues the melody with several triplet markings. The sixth staff begins with a measure marked '16.' and ends with a double bar line and a cross symbol, with the instruction 'D.S. al Fine' written above it.

(a) Mode of the Prophets

5.

darga tebir

etnahta \*

Detailed description: This block contains the sixth staff of the musical score. It begins with a measure marked '5.'. The melody is written in the same key signature and time signature. Below the staff, the words 'darga tebir' are written under the first half of the staff, and 'etnahta \*' are written under the second half. The staff ends with a double bar line and a cross symbol.

tifha sof pasuq

pesiq sof pasuq

Detailed description: This block contains the seventh staff of the musical score. The melody continues from the previous staff. Below the staff, the words 'tifha sof pasuq' are written under the first half, and 'pesiq sof pasuq' are written under the second half. The staff ends with a double bar line and a cross symbol.

Mode of Esther.

(East European)

rebia

darga tebir

etnahta.

Detailed description: This block contains the eighth staff of the musical score. The melody continues. Below the staff, the words 'rebia' are written under the first half, 'darga tebir' under the second half, and 'etnahta.' under the third half. The staff ends with a double bar line and a cross symbol.

(b)

(Minnesong by Meyster Kelyn)

Detailed description: This block contains the ninth staff of the musical score. It begins with a C-clef (soprano clef) on the first line. The melody is written in the same key signature and time signature. The staff ends with a double bar line and a cross symbol.



## MITWIRKUNG VON FRAUEN BEIM GOTTESDIENSTE\*

Ein unveröffentlichtes Gutachten von Lector MEIR FRIEDMANN s. A.

IN Anbetracht der Wichtigkeit dieser Frage erlaube ich mir, Ihnen diesen halachischen Gegenstand ausführlich vorzuführen und meine Anschauung zu begründen.

Zunächst fragen wir: Wie verhält sich das vom Standpunkte der Bibel?

In Exodus 15 wird von Moses und den Kindern Israels erzählt, dass sie Triumphlieder angestimmt; hernach hat Mirjam im Chore der Frauen unter Reigen und Tanz dasselbe Lied angestimmt. Es waren demnach verschiedene Chöre, und Männer und Frauen mischten sich nicht. Wollte man daraus aber auch behaupten, die Männer hätten auf den Gesang der Frauen nicht gelauscht, so wäre dies ein „zu viel finden wollen.“

In Richter 5 wird erzählt: Die Richterin Deborah und ihr Feldherr Barak sangen ein Siegeslied. Dem Wortlaute nach müsste man annehmen, dass sie miteinander gesungen. Sieht man

\*The above Responsum on the question of the participation of women in the religious service of the synagogue was written in January, 1893, by the famous scholar Lector Meir Friedmann and addressed to the then President of the Israelitish Community in Vienna, Wilhelm Ritter von Gutmann. The latter aimed at some reforms in the religious service in the synagogue with the view to interesting the young womanhood. He addressed a question in this matter to the late Professor Dr. David Kaufmann in Budapest as well as to Lector Meir Friedmann. The Responsum by Dr. David Kaufmann entitled: "Wie heben wir den religiösen Sinn unserer Mädchen und Frauen?" was published in the *Oesterreichischen Wochenschrift* of the 15th of September, 1893. The Responsum by Lector Meir Friedmann was not published that year because Wilhelm Ritter von Gutmann retired from the Presidency of the Israelitish Community in Vienna, and the matter, which is the subject of this Responsum, was dropped. The Responsum remained unpublished, and has been forwarded to us by the son of Lector Meir Friedmann, Bankdirektor Joab Friedmann of Vienna. We publish it both for its historic value and for the interest we have in whatever comes from the pen of this famous scholar.

—ED.

jedoch den Inhalt des Liedes genauer an, so zeigt es sich bald, dass Deborah allein es war, die gesungen. Wahrscheinlich wurde der erste Teil dieses Liedes von Deborah und der zweite—von *biflagot Reuben* ab—von Barak gesungen. Es würde sich daraus manches in diesem Teile erklären lassen, das sich aus dem Munde eines Weibes nicht gut anhört. Jedenfalls hörte das Volk auf den Gesang eines Weibes.

In 1. Samuel 18.6–7, wird von den Frauen der Städte Israels erzählt, dass sie den Siegern Saul und David mit Gesang und Instrumentalmusik entgegengezogen. Man nahm also keinen Anstand, die Frauen öffentlich singen zu lassen und auf ihren Gesang zu hören.

In 2. Samuel 19.36 sagt Barsilaj zu David, er sei schon zu alt, auf Sänger und Sängerinnen zu hören, woraus ersichtlich ist, dass bei Hofe Sängerinnen unterhalten wurden. Ebenso sagt Koheleth (2.8), dass er Sänger und Sängerinnen unterhielt. Auch bei Gelegenheit der Klagen Jeremiahs (2 Chronik 35.25) über den Tod des Königs Joschiahu wird erwähnt, dass die Sänger und Sängerinnen Klagelieder über ihn angestimmt haben. Der Mid-rasch Pirké derabbi Elieser (17) führt an, dass nach R. Meir die Frauen der Leviten, die als Sänger im Tempel gedient, solche Sängerinnen gewesen. R. Simon hingegen meint, es habe überhaupt im Volke Frauen gegeben, die es zu ihrem Berufe gemacht haben, bei Trauerfällen Klagelieder anzustimmen. Er beruft sich auf einen Vers in Jeremiah (9.16): „Merket und rufet die Klagefrauen, dass sie kommen und zu den Künstlerinnen sendet, dass sie kommen und eilends ein Klagelied über uns erheben, u.s.w.“

In Psalm 68.26 heisst es: „Voranziehen Sänger, hinten Saitenspieler mitten unter paukenschlagenden Mädchen.“ Hier ist allerdings von einem gemischten Chor die Rede, jedoch von verschiedener Natur. Gesang der Männer und begleitender Paukenschlag der Mädchen, was noch nicht beweist, dass es umgekehrt auch zulässig wäre.

Dann enthält auch das Hohelied Stellen, welche der Schulamit in den Mund gelegt sind, wo auch ihrer Stimme nachgerühmt wird, (2.14), dass Honigseim von ihren Lippen fliesse und dann, dass Milch und Honig fliesse von ihrer Zunge (4. 11).

Ebenso gab es Prophetinnen, die öffentlich Reden gehalten



haben, Vgl. 2 Könige 22.14ff., Nehemia 6.14. (Wenn jetzt die Blätter von Predigerinnen in Amerika erzählen, so finden diese ihr Vorbild in den alten Prophetinnen).

Hält man sich also an das Vorbild von Moses und Mirjam, so wird man kaum gemischte Chöre zugeben können, wie dies auch aus Secharja (12.12) ersichtlich ist, wo von Klagetrauern berichtet wird, die aber von den Geschlechtern getrennt abgehalten wurden.

Aus diesen angeführten Stellen ist zu ersehen:

1), dass die Geschlechter gesondert waren, wie dies später bei festlichen Gelegenheiten im zweiten Tempel eingeführt war. Nur ging man später hierin noch weiter vor, die Frauen über Manneshöhe zu placieren (Talmud Sukkah 52a), worauf sich die Form unseres heutigen Tempelbaues gründet.

2), dass man keinen Anstand genommen, die Frauen öffentlich reden und singen zu lassen und sie anzuhören, ohne darin eine Verletzung des keuschen Gefühles zu sehen, obwohl man hierin so strenge war, es als Sünde anzusehen, den Blick an der Schönheit eines Mädchens zu weiden. „Einen Bund hatte ich geschlossen für meine Augen, und wie sollte ich betrachten eine Jungfrau, und was das Teil Gottes u.s.w.“ (Job 31.1).

Indes beruht unsere religiöse Praxis heute nicht mehr auf der Bibel, sondern auf dem Talmud. Und wie ein geflügeltes Wort hört man von jedem oberflächlichen Talmudleser: *kol be'ischa 'erwa*. Deshalb finde ich es für notwendig, dieses halaschische Thema ausführlicher darzulegen.

Vor allem muss betreffs des Begriffes '*Erwa* vorausgeschickt werden, dass dieses Wort im engeren Sinne die Genitalien bedeutet, im weiteren Sinne jedoch für alles gebraucht wird, was das Keuschheitsgefühl verletzt.

Weder Mann noch Weib dürfen in nacktem Zustande beten oder Tora lesen, wenn die '*Erwa* nicht bedeckt ist, und ebenso darf dies nicht geschehen, wenn überhaupt der Blick auf die '*Erwa* fällt. Hier wird das Wort '*Erwa* angewendet, wenn etwas vom weiblichen Körper den keuschen Blick verletzt. Nach dieser Vorausschickung lasse ich Zitate aus dem Talmud Berachot (24a) folgen. R. Jizchak sagte: „Eine Hand breit von dem Körper eines Weibes (an den Körperteilen, die gewöhnlich bedeckt sind) ist

eine *'Erwa*. „In welcher Beziehung ist dies gemeint, fragt der Talmud, meint man, dass man es nicht anschauen dürfe? (Raschi sagt bei dem Weibe eines anderen Mannes). Hierüber hat R. Scheschet gesagt: „Wer auch nur den kleinen Finger eines fremden Wiebes lüstern anschaut, ist ebenso sündhaft, als wenn er ihre geheimsten Stellen anschauen würde.“ Darauf sagt der Talmud: „Es ist von der eigenen Frau die Rede, dass man bei ihrem Anblick das Schema nicht lesen darf und ebenso nicht beten und Tora lesen.“ Hierauf folgt ein Satz des R. Chisda: „Der Unterschenkel des Weibes ist eine *'Erwa*.“ Dieser Satz ist im Sinne des vorigen aufzufassen. R. Salomo ben Aderet fügt erklärend bei, „obwohl die Männer diesen Körperteil ungeniert frei tragen.“

Hier folgen zwei Sätze. R. Samuel sagte: *kol be'ischa 'erwa*. Die Stimme des Weibes ist eine *'Erwa*. R. Scheschet sagte: Das Haar Weibes ist eine *'Erwa*. Beide Sätze werden damit begründet, dass diese Eigenschaften im Hohenliede als Schönheiten des Weibes gerühmt werden.

Die Deutsche Schule (vgl. Mordechai, Bet Joseph Orach Chajim 75, Darke Mosche das. R. Jonah, Kommentar zu R. Alfassi im Namen R. Hai Gaon) bezieht diese Sätze auf das Schema-Lesen, ähnlich den früheren Sätzen. Es würde also gelten bei Stimme und Haar der eigenen Frau. Um aber die Sätze plausibel zu machen, erklären sie, dass hier unter Stimme Gesang zu verstehen sei. Da aber zu dem im Hohenliede gerühmten Schönheiten auch Gesichtsteile gehören, dürfte man sonach beim Anblick des eigenen Weibes überhaupt nicht das Schema lesen. Da findet diese Schule einen Ausweg. Sie unterscheiden zwischen den Dingen, welche keinen Reiz ausüben, weil man daran gewöhnt ist, wie das gewöhnliche Sprechen, der Anblick des Gesichtes, der Hände und Füße oder auch der Anblick von Hals und Armen, wo man an deren Entblössung gewöhnt ist. Dann auch des Haares, wo man gewöhnt ist, es frei zu tragen. (Vgl. Tiferet Schemuel und Ma'adane Jom tob).

Mordechai sucht zu entschuldigen, dass wir uns nicht unterbrechen beim Studium der Tora, wenn auch der Gesang der Bäuerinnen auf der Strasse uns in die Ohren dringt. Wir sind hierin in einer Notlage. Nach dieser Auffassung kommt es darauf

an, dass man nicht durch Sinnlichkeit gestört werde, also gleichviel ob durch Sehen oder Hören, und konsequent dieser Auffassung kann man auch beim Anblick der entblössten Körperteile der eigenen Frau das Schema lesen, wenn man nicht den Blick darauf fixiert, was dann sinnlich stören würde.

Dieser Auffassung jedoch widerspricht Talmud Kidduschin (70a). Dort wird erzählt, R. Nachman forderte seinen Gast R. Jehuda auf, er möge die Jalta, die Frau des R. Nachman begrüßen und jener lehnte dies ab, weil sein Lehrer R. Samuel gesagt; die Stimme beim Weibe ist eine *'Erwa*, und er könne sich mit dem Weibe eines anderen nicht in ein Gespräch einlassen. R. Salomo ben Aderet stösst auf diese Schwierigkeit und sucht sich aus der Verlegenheit zu ziehen durch die Annahme, die Beantwortung eines Grusses sei kein gewöhnliches Reden und wirke ebenso sinneerregend wie der Gesang.

Vergleicht man aber Jeruschalmi Challah (2, 4), so ist ersichtlich, dass sich dieser Satz des R. Samuel darauf bezieht, dass man selbst den kleinen Finger des fremden Weibes nicht lüstern anschauen dürfe und fügt er hinzu, dass man selbst ihre Stimme nicht lüstern anhören dürfe. Und R. Scheschet sagte: Selbst das Haar darf man nicht derartig anschauen. Demnach ist hier nicht von Gesang die Rede, sondern von der Frauenstimme überhaupt, die schon durch ihre Sprechweise ein Reizmittel bilden kann. Talmud Megillah (15a) bespricht die Reizmittel der Frauen und zählt auch die Stimme als Gelegenheit zum Kokettieren auf. Unter Umständen wurde schon das Sprechen mit einer fremden Frau als Ehebruch angesehen, zumindest aber als eine Verletzung der Sittlichkeit. So erzählt der Talmud Sanhedrin (75a) von einem, der liebeskrank wurde, und nachdem die Aerzte verschiedenes für den Patienten in dieser Richtung verlangt hatten, was als nicht statthaft abgewiesen worden war, forderten sie, man gestatte ihm, mit der betreffenden Frau zu reden, ohne sie zu sehen; eine Wand solle sie beide trennen. Aber da sagten die zeitgenössischen Gelehrten: Das dürfe nicht gestattet werden, selbst wenn die Krankheit den Tod zur Folge hätte. Der Talmud referiert über diese Erzählung, dass der eine der Amoraim meint, dass es sich hier um eine verheiratete Frau gehandelt habe, während der andere meint, es wäre eine ledige Person gewesen,

doch habe man es verweigert, weil er sie nicht heiraten, sondern nur bloss lieben wollte, ein Unterfangen, das, wenn es auch nur eine Befriedigung durch Reden sei, zur Unsittlichkeit führen würde. In diesem Sinne begreifen wir den Satz des R. Samuel, dass schon die Stimme eines Weibes eine 'Erwa sei.

Dieser Auffassung neigt Maimonides in seinem Jad-ha-Chasaḳa zu. In H. Keriat-Schema 3 kodifiziert er: „Es ist verboten, das Schema vor einer 'Erwa zu lesen, bis man das Gesicht nicht abwendet, u.s.w. Der ganze Körper des Weibes ist eine 'Erwa, deshalb schaue man nicht auf den Körper des Weibes während des Lesens, selbst nicht auf die eigene Frau und so eine Handbreit von ihrem Körper entblösst ist, soll er in ihrer Gegenwart das Schema nicht lesen. Caro in seinem Kesef-Mischneh bemerkt hiezu: „Es ist nur gemeint, von den gewöhnlich bedeckten Stellen, u.s.w.“ Von Stimme und Haar, die im Talmud beim Weibe als 'Erwa angesehen werden, nimmt unser Lehrer an, dass dies nicht bezüglich des Schema-Lesens, sondern in Bezug auf Keuschheitsvorschriften gelte und er erwähnt deshalb hier nichts davon.

Tatsächlich kodifiziert Maimonides in H. Issure Bi'ah 21.2: Wer da schauet auf nur den kleinen Finger eines Weibes mit der Absicht, einen Genuss dabei zu empfinden—*wenitchawen lihanot*—ist es ebenso, wie wenn er schauen würde auf die geheimsten Körperstellen; auch nur zu hören die Stimme der 'Erwa—*lišmo'a kol-ha-'erwa*—oder deren Haar zu sehen, ist verboten. (Zur Vervollständigung der Definition des Wortes 'Erwa sei bemerkt, dass jedes Weib, das zu ehelichen verboten ist, für den, dem sie verboten ist, als 'Erwa gilt. Alles in geschlechtlicher Beziehung untersagte wird mit *Debhar* bezeichnet.) „Es gilt nur von Frauen, die zu ehelichen verboten ist, hingegen kann man auf eine ledige Person schauen, u.s.w., nur darf dies nicht in buhlerischer Weise geschehen, u.s.w.“

Maimonides hat im Talmud die Lesart *kol be'ischa erwa 'asur* gehabt. Es ist demnach untersagt, Singen oder Reden zu hören und das Harr anzuschauen in der Absicht, einen Genuss zu empfinden bei verheirateten Frauen und bei solchen ledigen Personen, die man aus Verwandtschaftsrücksichten nicht heiraten durfte.

Demnach ist kein Unterschied zwischen Singen und Reden

und, so bald man dabei ein Genussgefühl wie beim Anschauen der schönen Formen des Weibes hat, so ist es untersagt bei Frauen, die man nicht ehelichen darf. Wir werden später sehen, dass diese Auffassung talmudisch begründet ist.

R. Jizchak Alfasi hat diese Sätze des R. Samuel und R. Scheschet in seine Sammlung gar nicht aufgenommen. Er scheint sie nicht als allgemeine Vorschrift, sondern als ausserordentliche Heiligkeitsregel — *Chasidut* — aufgefasst zu haben. Tatsächlich kommen bei R. Samuel (Kidduschin 70a) ausser dem Satze: „Die Stimme bei einer Frau ist eine *‘Erwa*“ noch andere ähnliche Sätze vor. Man dürfe sich nicht von einer Weibsperson, selbst wenn sie minderjährig ist (also noch ein Kind) bedienen lassen. Man dürfe keine Frau begrüßen und ihr auch nicht durch ihren Mann einen Gruss bestellen. Offenbar sind dies keine allgemeinen Vorschriften. Uebrigens hat R. Samuel selbst gesagt: „Alles in Gottes Namen, das heisst es kommt immer darauf an, in welcher Absicht es geschieht.“

Der Vollständigkeit halber führe ich noch an, dass R. Ascher zu dem Satze des R. Samuel (Ber. l. c.) die Bemerkung macht, dass dieser Satz nicht bezüglich des Schema gelte, sondern überhaupt, ob man die Stimme hören dürfe. Er stimmt betreffs dieses Satzes dem Maimonides bei.

Bei genauer Untersuchung und Herbeiziehung aller Bezug habender Stellen werden wir die Ueberzeugung gewinnen, dass der talmudische Standpunkt mit dem biblischen übereinstimmt, weshalb auch R. J. Alfasi und Maimonides nicht den gegnerischen Standpunkt einnehmen konnten.

Es war auch in talmudischer Zeit Brauch, dass die Frauen bei Leichen Klagelieder sangen (*Mo'ed Katan* gegen Ende). Keinesfalls aber ist zu unterscheiden zwischen Trauergesängen und solchen anderer Art, wie schon in einer Note des Kommentars *Tiferet Jisrael* nach Kidduschin (60b) vermerkt ist. Beweis hiefür ist, dass die Trennung der Geschlechter auch bei Trauer- und Leichenzügen eingehalten wurde.

Der Unterhaltungsgesang wurde nach der Auflösung des Synhedrions als Zeichen der nationalen Trauer verboten (*Talmud Sota* 48a). Lange Zeit nachher bildeten sich verschiedene Meinungen über die Zulässigkeit des Gesanges bei Trinkgelagen.



Und zwar waren es volkswirtschaftliche Gründe, die die Zulassung erheischten. Man erzählte sich, wohl mit Uebertreibung: R. Huna habe den Gesang untersagt, da hätte man 100 Gänse für einen Sus und ebenso 100 Scheffel Weizen für einen Sus kaufen können, es habe sich aber kein Käufer gefunden. R. Chisda habe dann den Gesang erlaubt, da habe man eine Gans für einen Sus nicht erstehen können. Hiebei macht R. Joseph die Bemerkung: Wo ein Männerchor den Gesang anstimmt und die Frauen in den Refrain einfallen, ist es eine Ausgelassenheit. Wenn aber ein Frauenchor den Gesang anstimmt und ein Männerchor in den Refrain einfällt, ist es geradezu wie ein Feuer ins Werg. Wozu die Bemerkung? fragt der Talmud, wenn man es nicht gänzlich abstellen könne, welches von beiden eher abgestellt werden müsse." Daraus ist zu ersehen, dass man gegen Frauenchöre allein, selbst bei Gastgelagen nichts einzuwenden hatte, nur die gemischten Chöre wurden als unsittlich angesehen.

Bezüglich gottesdienstlicher Funktionen lehrt der Talmud (Megilla 23a), dass auch eine Frau zur Tora vorgerufen werden könne, um die Zahl der 7 Vorzurufenden zu ergänzen, jedoch haben die Weisen gesagt: „es soll keine Frau vorlesen, um der Ehre der Gemeinde willen." Zum Verständnis dieses Satzes muss bemerkt werden, dass ursprünglich jeder Vorgerufene selbst den Abschnitt vorgelesen hat. Es ist somit auch ersichtlich, dass man wegen *'Erwa* kein Bedenken gehabt hat, eine Frau die Tora melodisch vorlesen zu lassen.

Dies hat sogar Caro in seinen Schulchan Aruch aufgenommen, und Isserls macht nur die Bemerkung, dass man nicht lauter Frauen vorrufen solle. (Orach Chajim 282). Ebenso heisst es im Schulchan Aruch (271), dass Frauen den Männern das Kiddusch vortragen können; bezüglich des Vorlesens der Megillah sind die Meinungen geteilt. (Das. 689). Abraham Abele macht die Bemerkung, dass, nachdem die Frauen der Ehre der Gemeinde wegen nicht öffentlich vorlesen sollen, sie es auch nicht ausnahmsweise für einzelne Männer tun sollen. Uebrigens wird auf diese Gemeindecchre unter Umständen keine Rücksicht genommen. Nach Hagahoth Maimoni H. Tefilla 12,200 soll man lieber auf die Gemeindecchre verzichten und Frauen vorrufen, wenn die anwesenden Männer grösstenteils Cohamin und Leviten sind, sodass

man Cohamin und Leviten mehrmals hintereinander vorrufen müsste. Dasselbe müsste geschehen, wenn die ganze Gemeinde aus Cohanim besteht; da kann man einen Cohen 2 mal vorrufen und für die übrigen 5 soll man Frauen vorrufen.

Nach dem hier Angeführten ist es klar, weshalb die deutsche Schule für „Stimme“ in dem Satze Samuels „Gesang“ substituiert. Auch begreifen wir, weshalb Alfassi den ganzen Satz verworfen hatte und Maimonides ihn nur bezüglich der Keuschheitsvorschriften aufrecht erhält; denn tatsächlich lässt sich kein Unterschied zwischen Reden und Singen machen und manche Rede bringt eine tiefere Wirkung hervor als Gesang. Noch weniger geht es an, zu unterscheiden zwischen Trauergesängen, melodischer Vorlesung der Tora und der Megilla (auch das Vortragen der Klagelieder am Tische-be'ab gehört dazu) und sonstigen gottesdienstlichen Gesängen.

Der Schulchan Aruch folgt seinem Vorgänger R. Jakob, dem Sohne des R. Ascher, der hierin wieder seinem Vater folgt und kodifiziert in (Orach Chajim 75): Man dürfe das Schema beim Anblick der entblößten Haare der Frau nicht lesen. Dann fügt er hinzu: Man hüte sich zu hören den Gesang einer Frau während des Schema-Lesens. Isserls fügt hinzu: „selbst der Gesang der eigenen Frau.“ Nur ihre gewöhnliche Stimme ist keine *'Erwa*. Und Abraham Abele fügt hinzu: „Der Gesang einer Frau, selbst wenn sie ledig ist.“

Es ist ersichtlich, dass bei diesen späteren Kodifikationen das Bestreben vorgewaltet hat, die widersprechenden Meinungen zu einigen, sobald die betreffende Vorschrift dadurch erschwerende Wirkung erhält.

Nun, wenn auch der Schulchan Aruch und seine Nachfolger keine Gesetzes-Kraft haben, so sind sie doch usuell geworden und man muss dem Rechnung tragen. Wollte man nun vom Schulchan Aruch absehen und sich an Alfasi und Maimonides halten, so könnte man Frauenchöre, aber keinesfalls gemischte Chöre zulassen; da aber der Schulchan Aruch usuell ist, so ist damit klargelegt, weshalb ich sagte, nicht mit jenen gehen zu können, die es geradezu erlauben. Dass ich auch nicht mit jenen gehen kann, die es schlechthin verbieten, damit hat es folgende Bewandtnis: Beim Männlichen und Weiblichen kann von *'Erwa*

nur von jenen die Rede sein, welche die Pubertät erlangt haben, nicht aber bei Kindern. So können Knaben und Mädchen zusammen wohnen, ebenso die Mutter mit ihren Kindern, der Vater mit seinen Mädchen, und kann man beim Anblick oder bei Berührung das Schema lesen (Vgl. Talmud Kidduschim 81b, Berachoth 24a, Orach Chajim 73 und Eben ha-Eser 21). Man darf selbst einen nackten Knaben zur Tora rufen, nur soll es wegen der Ehre der Gemeinde lieber unterbleiben (Megilla 23a). Das Kindesalter dauert nach dem Talmud bei einem Knaben bis zum vollendeten 12. und bei einem Mädchen bis zum vollendeten 11. Lebensjahre u. zw. wenn bis dahin die Pubertätssymptome eingetreten sind, wo nicht dauert die Kindheit, bis sich diese Symptome zeigen. Diese Angaben gelten für das Klima Babylons und Palästinas, für uns würde ich, ins solange unsere Knaben und Mädchen nach unseren Gesetzen als Kinder angesehen werden, aus diesen gebildete gemischte Chöre als erlaubt ansehen. Sobald die Altersgrenze, die unser Gesetz für das weibliche Kind festsetzt, erreicht ist, kann es für den gemischten Chor nicht verwendet werden, weil gemischte Chöre weder nach der Bibel, noch nach dem Talmud zulässig sind. Frauenchöre allein sind talmudisch zulässig, jedoch nach dem Schulchan Aruch auch nicht.

Bei dieser Gelegenheit möchte ich auf das Kapitel des Hervorrufens der Frauen zur Tora zurückkommen. Da will ich aussprechen, dass leider unsere Talmudkundigen keine Reformer und unsere Reformer keine Talmudkundigen sind. Was ich im Auge habe, ist die Konfirmation unserer Mädchen. Die Einführung einer solchen bei der deutschen Judenschaft ist nützlich und es ist besser, als wenn gar nichts geschehen würde, um bei den Mädchen ein religiöses Bewusstsein wachzuhalten, nachdem die häuslichen Observanzen beinahe gänzlich aus der Uebung gekommen sind. Nur muss man sich eingestehen, dass es ein Zeichen der Schwäche ist, keine eigene Form für die Konfirmation gefunden und sich mit der Nachahmung anderer Konfessionen geholfen zu haben. Täten wir nicht besser, unsere Mädchen als Barmizwa zur Tora vorzurufen, geradeso wie die Knaben? Der Eindruck und die Wirkung würde entschieden grösser sein als bei der nachgeahmten Konfirmation.

Ich meinerseits wäre sogar dafür, dass die Frauen ebenfalls zur Tora vorgerufen werden sollen, da uns heute die Empfindung dafür fehlt, die Ehre der Gemeinde als verletzt anzusehen, wenn eine Frau zur Tora vorgerufen wird. Hingegen würde das jüdische häusliche und Gemeindeleben ausserordentlich gewinnen, wenn die Frauen dieser religiösen Uebung gewürdigt würden. Es versteht sich von selbst, dass man eine gedeckte Treppe von der Frauen-Galerie direkt zur Bundeslade errichten müsste, damit die Vorgerufene ungesehen auf-und absteigen kann.

Auf Seite 9 schreiben Euer Hochwohlgeboren: „Da unser Gottesdienst am Sabbath zu einer Zeit . . . Nachdem wir den Sonntag absolut nicht einbeziehen dürfen . . . den Freitag Abend-Gottesdienst zu erweitern . . ., dass . . . Frauen und Töchter, besonders aber die jungen Leute diesem Gottesdienste beiwohnen.“

Seinerzeit hatten Euer Hochwohlgeboren mir die Ehre erwiesen, mir darüber mündlich Mitteilung zu machen. Ich hatte mir dann erlaubt, hierauf zu bemerken und es zu begründen, dass ich dafür wäre, den üblichen Gottesdienst für seine ständigen Teilnehmer zu belassen wie er ist, und ausser diesem einen ständigen, feierlichen und anregenden Gottesdienst zum Eingang und zum Ausgang des Sabbaths einzurichten und zwar zu einer fixen Stunde, ohne Rücksicht auf den Stundenwechsel, etwa um  $\frac{1}{2}$  8 h oder um 8 h Abends; dann glaube ich, würden unsere Geschäftsleute samt Frauen und Kindern ihn gerne frequentieren, und würde er ihnen zur Gewohnheit werden. Bei dieser Meinung beharre ich auch heute noch.

Meinen Dank muss ich Euer Hochwohlgeboren für die Aeusserung aussprechen, dass wir den Sonntag absolut nicht einbeziehen können! Es war und ist mir immer peinlich, wenn ich unsere Handwerkslehrlinge Sonntags zu einem Gottesdienst versammelt sehe und ich bedaure immer die Denkrägheit, die solches einführt. Wäre es nicht schöner, wenn diese Burschen in ihrer Feierabend-Stunde Freitag Abend und an den anderen Festtagen einen Gottesdienst abhielten, Kiddusch-Sprechen hörten und so die sabbathischen Eindrücke aus dem Elternhause soweit als möglich erhielten? Den Sonntag könnte man dann für den Religionsunterricht benützen. Ich stehe nicht an, es auszu-

sprechen, dass eine Aenderung hierin sehr wünschenswert wäre.

Da ich schon Gelegenheit genommen, mich über Kultusfragen auszusprechen, wollen Ew. Hochwohlgeboren mir noch gestatten, die Orgelfrage zu diskutieren. Was den Punkt *Chukot ha-goi* betrifft, so hat dieser, seitdem die Orgel in vielen jüdischen Gemeinden eingeführt ist, jedes Bedenken verloren. Ein solches wäre für die ersten drei Gemeinden, die sie eingeführt, vorgelegen. Heute ist die Orgel *Minhag Aschkenas*.

Eine Analogie hiezu bildet der Gebrauch des Spiegels. Kein Mann darf sich des Spiegels bedienen, weil die Tora einem Mann verbietet, sich weibisch zu tragen. (Jore Deah 156 u. 182). Nachdem es jedoch allgemein Gebrauch geworden, sich des Spiegels zu bedienen, sagt Isserls (das. 156) hat dieser aufgehört, ausschliesslich zur weiblichen Toilette zu gehören. Ähnlich verhält es sich auch mit dem Ornat für die Prediger und Kantoren, welches seinerzeit unsere Reformatoren—entweder aus mangelndem Talent oder aus Trägheit, eine passende jüdische Tracht zu erfinden—von der Kirche herübergenommen haben, wo Kappe und Halsbinde entschieden eine kirchliche Form haben; indes sind sie heute eine *Minhag Aschkenas* geworden. Uebrigens ist es hierin bei den alten frommen Juden aus der guten alten Zeit auch nicht besser zugegangen. Ihnen war der Trinitatschert oder Dreispitz hoch und heilig und wurde bei jeder religiösen Handlung angelegt.

Die Orgelfrage hat übrigens schon eine ganze Literatur hervorgerufen. Unzweifelhaft spielt hiebei die subjektive Empfindung eine grosse Rolle. Herr Dr. Ludwig August Frankl gehört gewiss nicht zu den Chasidim; von ihm führt die *Neuzeit* Jahrg. 1862 No. 19 an: „Wenn wir eine Strasse gehen und Orgelklänge vernehmen, so steht vor unserer Phantasie der die Messe lesende Priester und wir empfinden Weihrauchduft, gewiss aber fällt uns nicht ein, dass wir uns in der Nähe einer Synagoge befinden. Die Orgel ist, wenn die Bezeichnung gewagt werden kann, das klingende Christentum, die Gothik das gemauerte“ (? vide Altneuschule in Prag).

Führt man aber eine Orgel ein, so soll sie zum Gottesdienst gehören und am Sabbath und an den Feiertagen gebraucht



werden; sonst hat sie in der Synagoge nichts zu schaffen. Die Synagoge ist nicht da, um der Menschen willen, sondern um uns zu Gott zu erheben. Absurd ist es aber, zur Bedienung der Orgel einen Nichtjuden zu verwenden; aut aut, entweder sie gehört nicht in die Synagoge oder es muss ein religiöser Jude sie spielen. Was aber das Bedenken wegen des Sabbaths betrifft, so soll ein anderer fremder Jude—etwa ein Schochet der Gemeinde—bei demselben die Aufsicht haben, dass es zu keinem Chillul-Schabbat komme, vgl. Orach Chajim 331, Magen Abraham das. 5 u. 275. Dadurch ist jedes Bedenken behoben (Vgl. ferner Magen Abraham 588, 4); die dortige Frage entfällt, weil nur der angegebene Grund stichhältig ist und der dort herbeigezogene Grund lässt sich durch den Beistand eines Aufsehers paralysieren.

Zum Schlusse muss ich bemerken, dass ich in allem meine Meinung akademisch ausspreche, denn, obwohl ich seit meinem 24. Jahre zum Rabbiner authorisiert bin, habe ich eine Praxis niemals ausgeübt. Zu dem bin ich nicht offiziell über diese Themata befragt worden. Auch will ich bemerken, dass solche Veränderungen von der allgemeinen Mentalität der Mitglieder jener Synagoge, in welcher sie eingeführt werden sollen, abhängig sind und dass immer Einzelne das Recht haben, ihr Veto zu erklären, sobald es sich um Abänderungen eines eingelebten Usus handelt. Schliesslich ist der Friede innerhalb der Religionskörperschaft wertvoller, als die beste Reform.



"EVREISKAIA STARINA"  
A BIBLIOGRAPHY OF THE RUSSIAN-JEWISH  
HISTORICAL PERIODICAL

ABRAHAM G. DUKER, New York

INTRODUCTION

RECENTLY, two institutions which for years had been the mainstay of Jewish culture and learning in Russia were shut down by the Commissariat for the People's Education. The libraries of the *Society for the Diffusion of Culture among the Jews*, popularly known as the *OPE*,<sup>1</sup> and of the *Jewish Historico-Ethnographic Society*, were confiscated by the government at the end of December 1929.<sup>2</sup> Their rich collections were handed over to the Institute for Yiddish Culture at the All-Ukrainian Academy of Sciences, the representatives of which have been clamoring for years for the destruction of these Jewish institutions.<sup>3</sup> Finally, they succeeded; and "the 'last Mohicans' of the Black Hundred 'Hokmat Israel' were forced to yield their place to the representatives of the new Marxian Yiddishist scholarly work."<sup>4</sup>

One need not be an extremist to venture to foretell that Jewish learning in Russia is doomed at present. Investigations may still be carried on from a Communist point of view, in the field of economics, of the Yiddish language, in the history of the revolutionary activities among the Jews and in other fields which are an aid to the materialistic interpretation of History. No other type of investigation can be expected to be carried on under con-

<sup>1</sup> The full name of the Society in Russian is Obshtchestvo Raspostraneniia Prosvieshtcheniia mezhdru Evreiami v Rossii. Its Hebrew name is חברה מפציץ המשכלה.

<sup>2</sup> *Jewish Daily Bulletin*, December 31, 1929.

<sup>3</sup> J. Lieberberg, The library and press archives of the Institute for Yiddish Culture, ביבליאטעק און דרוק ארכיוו פון דעם יידישן קולטור אינסטיטוט, Charkow, Vol. I, 1930, p. 256.

<sup>4</sup> Quoted from Idem., p. 257.

ditions, where the authorities in the field are of the opinion that "proletarian academic work, general as well as Jewish, should be strongly allied with the Marxist-Leninist revolutionary theory."<sup>5</sup>

The most important factor in the study of the past of the Jews in Russia and Poland was the *Jewish Historico-Ethnographic Society*. The history of the older institution, the *OPE*, is quite adequately treated by its historians Tcherikover and Rosenthal, except in the last phase of its existence.<sup>6</sup> The *Jewish Historico-Ethnographic Society*, being a much younger institution has no written history as yet, except for some short articles and reminiscences by its leaders.<sup>7</sup> On the basis of these I shall endeavor to give a short sketch of its history and activities.

The Society began its official existence in November, 1908 when Maxim Vinaver received the permission of the government to establish a *Jewish Historico-Ethnographic Society* with the right to function and to organize branches throughout the empire. Unofficially, however, the beginnings of the Society date back to 1892, when local members of the intelligensia and the professions led by Maxim Vinaver organized themselves, among other commissions of investigation and research, in the Historico-Ethnographic commission at the branch of the *OPE* in Petersburg.

<sup>5</sup> Quoted from the introduction to the צײַטשריפט, journal of the Yiddish Sector of the White Russian Academy of Sciences, Minsk, 1930, Vol. 4, p. V.

<sup>6</sup> Tcherikover, I. M., *Istoria Obshtchestva . . . The History of the Society for the Diffusion of Culture among the Jews in Russia*, Vol. I, XIV, 254 p. Petersburg 1913. Rosenthal, Judah (Leon): *הולדות חברת מרבי השכלה בישראל* 2 Vol. Petersburg, 1885, 1890.

Works in Russian, as well as many present contributions in other Slavic languages (Polish, Ukrainian and Czech) and in other less commonly known languages such as Hungarian and Roumanian, are doomed to almost total obscurity under present conditions. A journal of the type of the *Social Science Abstracts* devoted entirely to Jewish scholarship and published in Hebrew would aid greatly in solving this problem.

<sup>7</sup> Ample material for those interested will be found in the reports and records of the Society in the E. S. (pp. 595-599 of this work). A brief and poignant sketch of its activities will be found in S. Dubnow's reminiscences: "A Memorial on the grave of the Historico-Ethnographic Society," in the ליטערארישע בלעטטער, Warsaw, Vol. VI, 1930, pp. 80-83, 114-115.

The real cause for this sudden interest in Jewish history was two brochures by the historian Simon Dubnow in which he called for the establishment of a Jewish Historical Society in Russia.<sup>8</sup>

The response to Dubnow's call was immediate. The Commission inaugurated its work by collecting data and references to the Jews in Russian sources.<sup>9</sup> The results of the investigation of its members were published in the *Regesty i Nadpisy*, the first volume of which appeared in 1899<sup>10</sup>. . . The Japanese War and the eventful revolutionary years of 1905 and 1906 interrupted the work of the commission. In 1908 its work was continued with redoubled efforts and better facilities by the newly established *Jewish Historico-Ethnographic Society*, the formal opening session of which took place on November 16, 1908, at a public meeting in the Alexander-Hall of the Petersburg Synagogue, under the chairmanship of Michael Kulischer.

The activities of the Society were many and varied. It conducted public sessions at which scholarly papers were read. It collected material on the history of the Jews in Russia and Poland. It excelled in the collection of old Pinkasim and material on the Jews during the World War. It aided in the financing of the expedition of the folklorist An-Sky. It continued the publication of the *Regesty i Nadpisy*. It published the *Pinkas Medinat Lita*.<sup>11</sup> Its most important activity was the publication of the *Evreiskaia Starina* quarterly, the first two volumes of which appeared in

<sup>8</sup> The first brochure published in 1891 contained a reprint of Dubnow's article: "Ob izutcheni istorji Russkikh Evreiev i ob utchrezhdeni Russko-Evreiskavo Istoritcheskavo Obshtchestva;" (About the study of the history of the Jews in Russia and the foundation of a Jewish Historical Society), Voskhod, 1891, Nos. 4-9. The second brochure entitled נחפשה ונחקרה קול קורא לחפשיה ונחפשיה אל הנונים בעם המתנדים לאסף חמר לבנין חולדות ישראל בפולין וברוסיה is a reprint from the פדרס, Vol. 1, 1892, pp. 221-224.

<sup>9</sup> See article by M. Vinaver "Kak mi zanimalis istoriej". . . How we occupied ourselves with history, *Ev. Star.*, Vol. I, 1909, pp. 41-54.

<sup>10</sup> *Regesty i Nadpisy*. . . Records and Inscriptions: A Collection of sources for the history of the Jews in Russia (60-1800 C. E.) Vol. I, period till 1760, Petersburg, 1899, XXIII, 536 p. Vol. II, 1671-1739, Petersburg, 1910, 386 p. Vol. III, 1740-1799, Petersburg, 1913, 367 p.

<sup>11</sup> Later fully published in Berlin 1925.



1909.<sup>12</sup> Works on Jewish history in Russia have appeared in many Russo-Jewish periodicals.<sup>13</sup> But here we have an organized and ably edited periodical devoted almost entirely to the study of this problem. This was the first organized attempt in the field of Jewish history in Eastern Europe, and as such it has succeeded in becoming a scholarly magazine of the first rank.

The publication of the *Starina* was continued regularly and without interruptions until 1915. The World War severed the contact between Jewish scholarship in Russia and the outside world. The antisemitic war policy of the Tsarist government interfered even in the field of Jewish scholarship. The printing of Hebrew type was prohibited in 1915 in entire Russia. The *Evreiskaia Starina* was suspended temporarily because of its publication of the Hebrew text of the *Pinkas Medinat Lita*. Later the suspension was rescinded, but the prohibition of Hebrew type remained in full force.

Censorship played havoc with the contents of the periodical. The war issues abound with blank spaces and sometimes even blank pages, to this day silent witnesses of oppression.

The March revolution of 1917 interrupted the work again. Financial difficulties arose. Nevertheless the 1918 volume, the last one to be edited by Dubnow who left Russia in 1922, was published, though in a reduced form. The following volumes appeared in 1924 and in 1928 and were edited by a board presided over by L. Sternberg who died before the publication of the latter

<sup>12</sup> Issued as follows:

Year 1, Vol. I, 317 pp. 1909

Vol. II, 317 pp. 1909

Year 2, Vol. III, 661 pp. 1910

Year 3, Vol. IV, 598 pp. 1911

Year 4, Vol. V, 480 pp. 1912

Year 5, Vol. VI, 560 pp. 1913

Year 6, Vol. VII, 512 pp. 1914

Year 7, Vol. VIII, 428 pp. 1915

Year 8, Vol. IX, 478 pp. 1916\*

For the years 1917-1918:

Vol. X, 320 pp. 1918

Vol. XI, 398 pp. 1924

Vol. XII, 408 pp. 1928

Vol. XIII, 192 pp. 1930

\*I was unable to obtain the first number of this volume. All its contents (except the section "Varia," containing a few communications) are listed on the basis of the volume index.

<sup>13</sup> *Evreiskaia Biblioteka, Voskhod, Perezhytoie, Kwartalnik*. For an excellent summary of what has been accomplished in this field see article by Tcherikover, "ייווא בלעטטער," *Wilno*, Vol. I, 1931, No. 2.

volume. The two volumes show clearly the effects of the desolation and isolation of Jewish scholarship, which is reflected in the scarcity of the material and in the proportionately large amount of reviews of works published outside of Russia during and after the World War, mostly translated from different languages.

The last volume was published in 1930, with S. L. Zinberg as chairman of the editorial board. To the future historian we leave the task of relating how the few of the "old guard" who remained till the bitter end struggled and fought for the life of their beloved institution against the fanaticism of the "Yevseksia."

The reader will note the arrangement of the work in the scheme of the bibliography, which follows this introduction. I have added short summaries or notes to the articles, the titles of which do not always convey a clear idea of their contents. Book reviews of importance were entered according to subjects and in accordance with the general scheme. I have utilized Prof. Balaban's list<sup>14</sup> in part of the work on the first two volumes. Pseudonymous articles have been listed under the "noms de plume" and necessary references were entered in the index to authors. In establishing the identity of the writers of many anonymous notes and reviews I have utilized the Dubnow bibliography by Josef Meisl.<sup>15</sup> As to orthography, German and Polish surnames were rendered in their original forms, with a slight modification in some cases. Taking into consideration the fact that in many cases the English reader was introduced into this field of history through the medium of the late Prof. Israel Friedlaender's translation of Dubnow's *History of the Jews in Russia and Poland*, I have followed the transcription of the translator in the indices of localities of Russian and Polish origin.

In conclusion I deem it a pleasure to express my sincere thanks and appreciation to my esteemed teacher, Prof. Salo Baron, at whose suggestion this work was undertaken, for his helpful assis-

<sup>14</sup> Dr. Maier Balaban, "Przegląd literatury historyi Żydów w Polsce" (A survey of the literature of the history of the Jews in Poland.) 1907-1911. A reprint from the *Przegląd historyczny*, 1912-1913.

<sup>15</sup> Josef Meisl, "Simon Dubnows Abhandlungen und Schriften" in the *Festschrift zu Simon Dubnows siebzigstem Geburtstag*, Berlin, 1930, pp. 266-295, also printed in *Soncino Blätter* Vol. I, pp. 223-247.

tance and valuable advice in the preparation of this work, to Mr. Isaac Rivkind, for his kind assistance in the translation of some doubtful phrases and for a number of suggestions, to Prof. Alexander Marx for his kindness in placing at my disposal the files of the *Evreiskaia Starina* in the Library of The Jewish Theological Seminary of America, with which it is my privilege to be connected and to Dr. Jacob Shatsky for lending me the last volume of the periodical.

(For Scheme of following Bibliography see below pp. 602-3.)

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RUBSTEIN, B., About the number of the Jewish population in

the Grand Duchy of Lithuania in the middle of the 16th century. VIII 20-28. (30)

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GALANT, I., Official correspondence about the discontinuation of Jewish colonization in the New-Russian lands (1862). V 330-334. (31)

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KOROBKOV, H., Recruiting of Jews during the rule of Nicholas I VI 70-85, 233-244. (44)

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2. About permitting Jewish recruits to accept Christianity.

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PINES, D., The struggle against the *Chappers* VIII 396-398. (48)

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KAGAN, M., Communications.

1. A receipt of a "Kidnaper." (With regard to a young recruit taken in 1855.)

2. As to a prophecy about Napoleon. (A Hebrew sentence foretelling his doom.) III 427-428. (49)

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SON-M-K, P., From the history of the deprivation of the Jews of their elective franchise. The situation in the cities in 1892. IV 109-113. (68)

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# THE PSYCHOANALYTIC STUDY OF JUDAISM

ABRAHAM CRONBACH, Hebrew Union College, Cincinnati, Ohio.

## PART I

### EXPOSITORY

THE application of psychoanalysis to the contents of Judaism is of interest not only to the student of the Jewish past but equally to the student of the Jewish life of to-day. Though most of the published material<sup>1</sup> deals with doctrines, stories and rituals of ancient inception, these are themselves of no little bearing on the problems and processes of our own time. Many of the old stories, Biblical and non-Biblical still have their appeal.<sup>2</sup> The cause of that appeal may well be that in the modern mind ancient trends still persist. Many of the hoary rituals are still in use. Altered though constructions and interpretations may have grown as the ages have passed, some of the early motives behind those rituals may still be operative. Add to this the fact that contemporary observations in the clinic furnish with regard to the past the clue to not a few novel insights. Who knows on what contemporary Jewish issues, psychoanalysis may yet contribute some novel illumination!

The present study is to fall into two parts—an expository part and a critical part. The expository part will attempt a systematic presentation of everything that has been published relative to the various aspects of Judaism in the way of psychoanalytic surmises. Not until the second part shall we undertake to appraise these surmises or any of their implications.

The divisions to be constructed in our expository part are:

- I. Ambivalence.
- II. The Heterosexual.
- III. The Homosexual and the Narcissistic.

<sup>1</sup> Bibliography in Appendix I.

<sup>2</sup> A list of these in Appendix II.

- IV. Incest.
- V. Hostility between Father and Son.
- VI. Conciliation between Father and Son.
- VII. Amalgamations.
- VIII. Totemism—Incest.
- IX. Totemism—Hostility between Father and Son.
- X. Totemism—Conciliation between Father and Son.
- XI. Totemism—Amalgamations.

Sex is the theme of all of the divisions after division I. The Oedipus Complex is the theme of all of the divisions after division III. The totemistic manifestations of the Oedipus Complex occupy—as the names indicate—the last four of these divisions.

### I. AMBIVALENCE

That sex plays a conspicuous role in psychoanalysis is too well known to need recalling. Yet psychoanalysis is concerned not so much with sex as with the conflicts of sex. Throughout the present study sex is complicated by a factor known as *Ambivalence*. Ambivalence designates the circumstance that a person may like and at the same time dislike one and the same person or action. One may love and at the same time abhor one's father; one may crave and at the same time repudiate sexual promiscuity.<sup>3</sup> A deeper philosophy might relate ambivalence to the fundamental multiplicity and diversity of human purposes. The same person or action may be agreeable or disagreeable according to the purpose of ours that chances to be affected. Psychoanalysis, however, does not pursue philosophical imports that far. It treats ambivalence as something virtually ultimate.<sup>4</sup>

<sup>3</sup> Amazing examples of ambivalence are listed in Freud's *Totem und Tabu* (Leipzig, 1913), pp. 38-48, "Das Tabu der Herscher" where, basing himself on Frazer, Freud cites instances in which primitive rulers receive a treatment that is a combination of extreme adulation and extreme abuse. Can the inveterate abuses heaped upon the President of the United States be a persistence of this?

<sup>4</sup> Theodor Reik attempts to exhibit the biological underpinning of ambivalence. He suggests that the unity of the liked and the disliked which ambivalence implies is derived from the infantile unity of the I and the not-I or from the unity of the original urge out of which all divergent urges evolved or the unity of the original organism out of which the several variations

Let us first examine then the material which operates with the concept of ambivalence exclusively. To this belongs the story of David's Census.<sup>5</sup> The story has been explained as a cryptic intimation that David, forgetful of his long outlawry, feels hatred as well as affection toward his people. That which the pestilence wrought was only that which David unconsciously wished.<sup>6</sup>

The other factor of the ambivalence appears in David's self reproach.<sup>7</sup> It is asserted that neurotic acts of self-punishment often simulate—*middah keneged middah?*—the doings that supposedly require the punishment. The pestilence by which David is penalized is analogously but an objectification of the pestilence invoked upon Israel by David's unconscious grudge.

Again the element of numbers and of counting is asserted to be related to notions about demons, demons being in turn the projections of the malevolence in the human mind.<sup>8</sup> The story of David's census involves indeed Satan, the chief of demons. Theodor Reik, the exponent of these views, cites the Gallas of West Africa who regard the counting of the herd as an ill omen and the Lapps who believe that census taking increases the death rate.<sup>9</sup> Reik supposes the underlying idea to be that enumeration being an extension of human control over the unknown is something sacrilegious.<sup>10</sup>

emerged. Cf. Reik, *Der Eigene und der Fremde Gott* (Leipzig, Wien, Zuerich, 1923), pp. 233, 239, 240, 243. The multiplicity and diversity of human purposes is discussed in "The Social Consequences of the One and the Many" *Hebrew Union College Monthly* (Dec. 1929, Jan. 1930).

<sup>5</sup> Theodor Reik, "Psychoanalytische Studien zur Bibelexegese," *Imago*, V, 353 "Die Suende der Volkszaehlung." The Biblical references are II Sam. 24, I Chron. 21.

<sup>6</sup> It is surprising that Reik makes no point of the fact that the pestilence was a matter of David's own choice.

<sup>7</sup> Reik refers to II Sam. 24.10; I Chron. 21.8.

<sup>8</sup> *Op. cit.*, p. 352, also, *Der Eigene und der Fremde Gott* p. 138, 141, and Freud, *Totem und Tabu* p. 123.

<sup>9</sup> "Die Suende der Volkszaehlung," *Imago*, V, 351.

<sup>10</sup> *Ibid.*, p. 352, footnote 21. Reik, p. 351, regards as untenable Frazer's interpretation that David's sin consisted in his doubt of the Divine purpose that Israel would become as the sands of the sea or in David's invasion of tribal autonomy. The latter, thinks Reik, would not be a "sin for all Israel"



Inasmuch as the Deity is in II Sam. 24 represented as counseling the census, the implication is that the Deity Himself is ambivalent toward His people, loving them and at the same time hating them.<sup>11</sup>

Reik sees further manifestations of ambivalence in various mourning customs.<sup>12</sup> He holds that mourning once consisted of self mutilations intended to appease the dead for previous unkindly attitudes toward them on the part of the living. Etymologically "mute"—the dead being mute—and "mutilate" are said to be connected, like "*stumm*" and "*verstuemmt*."<sup>13</sup> The primitive like the unconscious mind does little discriminating. A death due to murder differs little from any other kind of death. The mere unconscious urge to kill is by the *Allmacht der Gedanken* equivalent to killing. Plato is accordingly quoted to the effect that the ghost of the slain is angry at the slayer.<sup>14</sup> The Yasos of British Central Africa believe that, in the guise of sickness or insanity, Chirope (like the Eumenides of Orestes) will beset the murderer of a fellow tribesman.<sup>15</sup> The honors bestowed by certain primitives upon the skulls of their slain enemies are also instanced. Among the West African Negroes and the Brazilian Indians, according to a quotation from Frazer, the executioner yields some of his own blood and bears scars upon his body to show that the victim has received due satisfaction.<sup>16</sup>

In this light Reik understands the sign of Cain<sup>17</sup> as well as

(I Chron. 21.3). The theory of Nowack that the matter reprehended was plans for taxation and the strengthening of the monarchy is rejected by Reik on the grounds that such would not be a sin but a political blunder. Regardless of the validity of Reik's objections, it is not clear why Reik should be at all troubled by the views of Frazer and of Nowack. Those views relate to the conscious. Psychoanalysis is concerned with the unconscious. Unconscious trends can co-exist with conscious trends of a most divergent character. Reik himself speaks of the "overdetermination" of all mental phenomena (*Imago*, V, 347).

<sup>11</sup> Exod. 33.3 is instanced as another example of Divine ambivalence.

<sup>12</sup> "Das Kainzeichen," *Imago*, V, 31-42.

<sup>13</sup> *Ibid.*, p. 37.

<sup>14</sup> *Ibid.*, p. 34.

<sup>15</sup> *Ibid.*, p. 35.

<sup>16</sup> *Ibid.*, p. 35.

<sup>17</sup> *Ibid.*, p. 34. Reik rejects the theory that the sign of Cain was a tattoo which protected against blood revenge. This, he argues, would be precluded by the wide prevalence of tattoo. Ludwig Levy, by way of rejoinder to Reik

such Jewish mourning customs as the *Keri'ah*, the *Shib'ah* and *Seret*.<sup>18</sup> *Tefillim* likewise gain significance here.<sup>19</sup> Agreeing with Stade, Reik views *Tefillim* as surrogates for tattoo. He recalls that Arabic women carry tattoos on those parts of the body where the *Tefillim* are placed by the Jews. Just as the tattoos of mourning assuage the demons, *Tefillim* according to a passage in Berakot have the power to ward off demons.<sup>20</sup>

Ambivalence is further invoked to account for various threshold customs and superstitions.<sup>21</sup> Reference is made to the Biblical passages Jer. 34.4; II Kings 12.10; Zeph. 1.9; I Sam. 5.1-5;<sup>22</sup> also to the Catholic custom of placing holy water at the church door and to the Jewish *Mezuzah*. Reik thinks that stepping on the threshold unconsciously implied a somewhat aggressive and non-deferential attitude toward the master of the house.<sup>23</sup> He mentions Freud's observation that neurotic patients divulge their attitude toward the physician by neglecting to close the door, that some neurotics fear to touch door knobs and that one neurotic woman dreaded stepping on the indentations of cement sidewalks.<sup>24</sup>

The parallels from anthropology are copious. According to a quotation from Captain Condor, stepping on the threshold is in Syria deemed unlucky.<sup>25</sup> In Fiji only persons of highest rank may

adduces elaborate arguments to the effect that the sign of Cain was a sign of membership in the clan, hence a guaranty of protection by the clan and the god of the clan ("Ist das Kainzeichen die Beschneidung?" *Imago*, V, 290-293). But are these several views mutually exclusive? We could apply here the same comment as that in note 10 discussing Reik's controversy with Frazer and Nowack concerning the census of David.

<sup>18</sup> Reik, *op. cit.*, p. 33. The Biblical references are Lev. 19.27, 28; Deut. 6.8; 11.18; 14.1.

<sup>19</sup> *Loc. cit.*

<sup>20</sup> Berakot 23ab, R. Johanan takes his *Tefillim* to the place of evacuation in order to be protected from the demons.

<sup>21</sup> "Die Tuerhueter," *Imago*, V, 344-350.

<sup>22</sup> Reik apparently overlooked Exod. 12.7 and Isa. 6.4.

<sup>23</sup> *Op. cit.*, p. 348. It was not possible to find this point in the reference given: Freud's *Vorlesungen zur Einfuehrung in die Psychoanalyse* (Vienna, 1917), p. 275. See *infra* p. 621.

<sup>24</sup> Reik might have instanced the superstition among American children that stepping on cement pavement indentations is an ill omen.

<sup>25</sup> *Ibid.*, p. 345.

step on thresholds. Marco Polo reports that tall doorkeepers would impose fines or beatings on persons who would step on the threshold when entering the palace of Kublai Khan in Peking. According to a thirteenth century monk, Rubriques, a ruling of the chancellor of Mangu Khan barred from ever entering the palace an envoy who stumbled on the threshold quite accidentally. Frazer is quoted as reporting a similar custom among the Morwa of Northwest India. For stepping into the hut or tent of a Tartar prince, death was the penalty. In India, the bride entering her new home presses the threshold hurriedly and only with her right foot. In Altmark the groom carries the bride from the wagon to the hearth. Reik believes that the corresponding Roman custom is not, as Plutarch thinks, a survival of wife stealing but a measure to avoid putting the foot on the threshold. The Mongolians have a proverb. "Step not on the threshold; it is sin." Of one at whom he is angry, the German says, "Der kommt mir nicht ueber die Schwelle."<sup>26</sup> There is also the German proverb, "Mit Gott tritt ein, bring Glueck hinein."<sup>27</sup>

Frazer surmises that ancestral ghosts were supposed to inhabit the threshold as house guardians.<sup>28</sup> Reik agrees that such may have been one of the roots of the custom conjointly with the factor of ambivalence. By the psychoanalytic law of "over-determination," the motives or strata of motives that operate in one and the same reaction may be many.

A further manifestation of ambivalence is seen in the differentiation between gods and demons. A number of writers contend that originally one deity combined in himself the divine traits and the diabolical ones. Later a separation occurred, the friendly traits becoming segregated into a god, the offensive ones being purged out into a devil.<sup>29</sup> Reik observes that Australian tribes draw little distinction between gods and demons.<sup>30</sup> Once the

<sup>26</sup> *Ibid.*, p. 349.

<sup>27</sup> *Ibid.*, p. 350.

<sup>28</sup> *Ibid.*, p. 347.

<sup>29</sup> E. D. Martin, *The Mystery of Religion* (London and New York, 1924), pp. 148, 149. Oscar Pfister, *The Psychoanalytic Method*, translated by C. R. Payne (New York, 1917), p. 138. Ernest Jones, *Der Alptraum*, Deutsch von E. G. Sachs (Leipzig and Vienna, 1912), Chap. VI. Theodor Reik, *Der Eigene und der Fremde Gott* (Leipzig, Vienna, Zurich, 1923), p. 140.

<sup>30</sup> Reik, *Der Eigene und der Fremde Gott*, p. 135.

Egyptian demon Set was worshiped as a deity,<sup>31</sup> similarly the Babylonian demon Tiamat. In Num. 22.22 the angel of the Lord is a "Satan"<sup>32</sup> while in Job, Satan is one of the servants of the Lord.<sup>33</sup> The tempter of David who is Satan in I Chron. 21.1 is the Lord in II Sam. 24.1. Leaping through the centuries, Reik sees a similar identification of God and the Devil in the words "*Deo solo gratia*" inscribed upon the sword of the inquisitor.<sup>34</sup> In Amos 5.8 and Isa. 45.7 God creates the darkness as well as the light.<sup>35</sup> Reik goes so far as to hold that whoso abandons the belief in the devil soon abandons belief in God, the two being that closely interrelated.<sup>36</sup> Ernest Jones connects the word "devil" etymologically with "two," "duo," "double" expressing a bifurcation of something which was one originally. The fear of the demon is asserted to be only the fear of the god displaced.<sup>37</sup> Of course the god-demon distinction is in turn derived from the ambivalent attitude of the child toward the loved and hated father.

Demons are sometimes the degraded gods of former religions.<sup>38</sup> Hence but a slight variant of the distinction between god and demon is that between one's own god and a strange god.<sup>39</sup> It is held that the feeling of uncanniness is always due to some subtle identification between the transcended and the attained.<sup>40</sup> The uncanniness of strange gods can therefore be accounted for only by some latent identification between the strange god and one's own.<sup>41</sup> This uncanniness is also related to the child's hostility toward the father and the resultant sense of guilt. Here again by the *Allmacht der Gedanken* a hostile thought amounts to a hostile act.<sup>42</sup> Reik calls attention to the fact that various prominent Hebrews were named after Baal which is reminiscent of the time when Baal was an object of worship little diversified from Jahweh.<sup>43</sup> He further holds that the prophetic denunciation

<sup>31</sup> *Ibid.*, p. 136.

<sup>32</sup> *Ibid.*, p. 140.

<sup>33</sup> *Ibid.*, p. 149.

<sup>34</sup> *Ibid.*, p. 162.

<sup>35</sup> *Ibid.*, pp. 176, 178.

<sup>36</sup> *Ibid.*, pp. 180-182.

<sup>37</sup> *Ibid.*, p. 137.

<sup>38</sup> *Ibid.*, p. 138.

<sup>39</sup> *Ibid.*, p. 149.

<sup>40</sup> *Ibid.*, p. 147.

<sup>41</sup> *Ibid.*, p. 138.

<sup>42</sup> *Ibid.*, pp. 183, 185, 188.

<sup>43</sup> *Ibid.*, p. 188.

of false gods betrays a popular hankering after them which intimates their original identification with the true God.<sup>44</sup> Explicable in the same terms is the uncanniness which Jesus and Mary possess for the Jews. Reik sees here "a reaction of something that surges up from the repressed unconscious."<sup>45</sup>

Of one stripe with the foregoing is the distinction between one's own earlier god and one's later god. The earlier god is akin to the strange god and, like the strange god, demonized readily.<sup>46</sup> As neurotics resist acknowledging their own infantilisms, the earlier god from whom one's contemporary god developed gets to look like a caricature.<sup>47</sup> Similarly is the hell of one age interpreted by Reik as being the emotionally distorted heaven of an earlier time.<sup>48</sup>

Another faint variant of the same distinction is that between the communal god and the private god. An old god can continue as the object of private worship long after the clan has changed gods.<sup>49</sup> Reik traces to this divergence the later distinction between the orthodoxy of the many and the heresy of the few.<sup>50</sup> What a strange reversal of our customary anticipations! We usually expect to find Orthodoxy linked with the old and innovation the program of heresy.

This theory concerning the nature of demons is essentially no different from that already broached in which demons were explained as projections of one's own hostile sentiments.<sup>51</sup> There is little gap between hostile sentiments in one's self and hostile actions in others. Hostile sentiments in one person lead to hostile actions in others and *vice versa*. Indeed when sentiments are hostile, the actions of the hated person appear hostile no matter what they may be. Hostility thus gives rise to the demon concept whether men locate the hostility in themselves or in another; while friendliness gives rise to the god concept whether the seat of the friendliness be the subject or the object.

Outside of the Jewish domain such illustrative ambivalences are treated by Reik as that of Jesus and Judas—splittings of the

<sup>44</sup> *Ibid.*, p. 148, note 1.

<sup>46</sup> *Ibid.*, p. 142.

<sup>48</sup> *Ibid.*, p. 152.

<sup>50</sup> *Ibid.*, p. 157.

<sup>45</sup> *Ibid.*, p. 217.

<sup>47</sup> *Ibid.*, p. 179.

<sup>49</sup> *Ibid.*, p. 155.

<sup>51</sup> *Supra* p. 607 and note 8.



same personality—and correspondingly that of Mary, mother of Jesus and Mary Magdalene.

A highly complicated form of ambivalence is exemplified by religious persecution. The atrocities with which persecutors charge their victims are, according to Reik, atrocities which the persecutors themselves desire to commit.<sup>52</sup> In punishing their victims they are by mental displacement inflicting self-punishment. Thus in the crucifixion charge (and cognate to it the blood accusation) the hostility toward the Christian god for which the Christian indicts the Jew is in reality a latent hostility harbored by the Christian himself.<sup>53</sup>

Not far from the ambivalent attitude toward one's own god is ambivalence toward one's own doctrines. That one can favor and at the same time oppose one's own dogmas is, according to Reik, evidenced by the fact that the greatest religious hostilities are those resulting from the smallest theological differences.<sup>54</sup> "There are only trivial differences" says Reik, "between that which people extol and that which they abhor." Apparently related to this in Reik's estimation is the circumstance that in moments of stress people pray though they are otherwise negative religiously.<sup>55</sup> We Jews are familiar with the type of Jew who, though totally unobservant in other matters, singles out for observance Yom Kippur or the mourning customs.

Further akin to this is the theological hairsplitting by which doctrines are fanatically defended in a manner which to the psychoanalyst only betrays an unconscious scepticism. Reik instances Talmudic casuistry as well as Christian dogmatics.<sup>56</sup> Unrelenting preoccupation with theological subtleties has striking parallels in certain neurotic conditions in which desire and aversion, belief and disbelief struggle together without surcease.

Reik also finds in some religious manifestations the ambivalence of people toward their own ambivalent selves, hatred of

<sup>52</sup> *Ibid.*, p. 198.

<sup>53</sup> *Ibid.*, p. 201.

<sup>54</sup> *Ibid.*, pp. 219, 249.

<sup>55</sup> *Ibid.*, p. 171.

<sup>56</sup> Reik, "Dogma und Zwangsidee" *Imago*, XIII, 292, 296-298. The Talmudic illustrations are Kid. 52b, Nazir 99b where R. Judah excludes the disciples of R. Meir for chicanery and B. M. 59b, the dispute between R. Eliezer and R. Joshua regarding the stove.



self wrangling with love of self. "Attacks upon others are attacks upon one's self because the self and the other were originally one<sup>57</sup> . . . Thus the I turns upon its hated *alter ego*."<sup>58</sup>

Little surprising, in view of all this, is the ambivalence in the Christian's attitude toward the Jew, esteem for the Jew and contempt for the Jew alternating constantly.<sup>59</sup>

## II. THE HETEROSEXUAL

Having thus far considered data in which ambivalence is the dominant matter of illustration, we now proceed to that in which the outstanding factor is sex—sex of course in the usual psychoanalytic connection of sex conflict and the ambivalence attending it. Presently we shall take up the Oedipus Complex whose role in the psychoanalytic interpretation of Judaism is enormous. First however let us turn to sex material that lies outside of the Oedipus Complex. This we shall classify as:

- a. The Heterosexual.
- b. The Homosexual.
- c. The Narcissistic.

Three significant treatments of Jewish matter from the standpoint of heterosexual desire are, "*Sexualsymbolik in der Paradiesgeschichte*" by Ludwig Levy,<sup>60</sup> "*Zur Funktion der Juedischen Tuerpfostenrolle*" by Georg Langer<sup>61</sup> and "*Die Ehe des Propheten Hossea in Psychoanalytischer Beleuchtung*" by Adolf Allwohn.<sup>62</sup>

### A.

Levy makes out that, in the Paradise story, the forbidden fruit means *coitus*.

Was the originator of the story setting forth his views regarding cohabitation? If not consciously, was there such intent

<sup>57</sup> *Der Eigene und der Fremde Gott*, p. 251.

<sup>58</sup> *Ibid.*, p. 224.

<sup>59</sup> *Ibid.*, p. 213.

<sup>60</sup> *Imago*, V, 16-30.

<sup>61</sup> *Imago*, XIV, 457-468.

<sup>62</sup> *Beihefte zur Zeitschrift fuer die Altestamentliche Wissenschaft* (44. Verlag von Alfred Toepelmann, Giessen 1926).

unconsciously? Or did that intent begin with some elaborator or editor or some reader or hearer? Just when the identification of forbidden fruit and sexual intercourse occurred, Levy fails to suggest.

And yet, facing the author's wealth of anthropological citation, one can hardly avoid admitting the prevalence of sex ideas in Genesis, chap. 3. The story abounds in phrases and images with which, at various times and places, sex has been associated. We summarize these as follows:

1. First, the word "know" which, in the Paradise story and in the Cain-Abel story that follows, occurs no fewer than nine times.<sup>63</sup>

That which the first parents come to know is the fact of their nudity, that is, of their sexual difference.<sup>64</sup>

This is related to the frequent use of *yada'* as a sex euphemism, a usage which the author reports to obtain in Arabic, Syriac, Assyrian, Greek (*gignoscein*) and Latin (*noscere*, *agnoscere*, *notitiam habere*).<sup>65</sup>

Allied to this is the view that the phallus is the seat of knowledge. The knowledge may be that of certain unusual emotions or the knowledge how human beings originate.<sup>66</sup> Unsupplied with knowledge are sexually unripe children<sup>67</sup> as well as the aged who have outlived their sexual potency.<sup>68</sup>

The equation of knowledge and cohabitation our author finds further validated by the conjunction of "tree of knowledge" and "tree of life."<sup>69</sup> He regards the *waw* in "*we'eẓ ha-da'at ʾet ʾet wara'*" (Gen. 2.9) as *waw explicativum* requiring the translation, "The tree of life in the midst of the garden, *that is*, the tree of all knowledge whatsoever." On the identity of the two trees

<sup>63</sup> Gen. 2.9, 17; 3.5a, 5b, 7, 22; 4.1, 17, 25.

<sup>64</sup> "Sexualsymbolik in der Paradiesgeschichte" *Imago*, V, 18. Ibn Ezra to Gen. 3.7; on the relation of nudity to sex.

<sup>65</sup> *Op. cit.*, p. 20.

<sup>66</sup> May not the word "know" for sexual intercourse also derive from the intimacy of the relation and the closeness of the personal acquaintance involved?

<sup>67</sup> Deut. 1.39; Isa. 7.14b, 15a.

<sup>68</sup> II Sam. 19.36.

<sup>69</sup> *Op. cit.*, pp. 21, 22. On *Waw explicativum*, Gesenius-Kautsch § 154, note b.

he cites the Midrash.<sup>70</sup> Gen. 3.22 which in all events the critics assign to a heterogeneous source he regards as an editorial insertion arising from the erroneous supposition that in Genesis 2.9, two trees are meant. If "tree of knowledge" and "tree of life" i.e. of procreation are indeed the same, the nexus of knowing and cohabitation is further confirmed.

2. The author adduces considerable anthropological material on the connection between *libido* and apples. He assumes, of course, that the identification of forbidden fruit with apples is ancient.

Apples, he holds, are replica of the female breast.<sup>71</sup> Haupt's "Liebeslieder" are quoted for the modern Palestinian song, "Her pomegranates are fresh, swelling, budding."<sup>72</sup> Goethe's "Faust" is quoted:

"Der Aepfelein begehrt ihr sehr  
Und schon vom Paradiese her."<sup>73</sup>

and a Latin poet: "Libros non lego, poma lego."<sup>74</sup> The golden apples of the Hesperides are also regarded by our author as sexually symbolic.

He further recalls the quince eaten at Greek weddings as well as the pomegranate of Persephone and the pomegranate in the hand of Here at Argos and of Zeus at Pelusium.<sup>75</sup>

If the forbidden fruit be regarded not as an apple but, following the Midrash and the Talmud,<sup>76</sup> as a fig, the reminder becomes pertinent that the fig also is a phallic symbol.<sup>77</sup>

3. On the phallic symbolism of the fig, Levy quotes the Latin sources, Horace and Martial who speak of phallic images

<sup>70</sup> Midrash Agada, Ed. Buber on Gen. 2.17. It was not possible to locate this passage. The author does not state who the critics are that assign Gen. 3.22 to a heterogeneous source. Gunkel takes it as homogeneous with its J context.

<sup>71</sup> Levy, *op. cit.*, p. 24.

<sup>72</sup> The passage is given as on p. 86 of the "Liebeslieder."

<sup>73</sup> Levy, *op. cit.*, p. 19.

<sup>74</sup> The reference is to Priap. Carm. LXVIII, 1ff. for "*Libros non lego, poma lego.*"

<sup>75</sup> Levy, *op. cit.*, p. 20. It appears that the author has overlooked Cant. 2.3, 4.

<sup>76</sup> Gen. Rabba XV, 8, the opinion of R. José, also San. 70b top.

<sup>77</sup> Levy, *op. cit.*, p. 27.

carved from the wood of the fig tree.<sup>78</sup> In certain Greek orgies, a box containing the golden phallic snake was made of fig wood.<sup>79</sup> In the Dionysian rites, the snake itself was of fig wood.<sup>80</sup> Athenian girls would, on these occasions, carry figs in baskets. Dionysius is said to have planted a fig tree at the door of Hades. In French "*figue*" means "vulva."<sup>81</sup>

4. The act of eating has sexual implications. The striking passage is Prov. 30.20 which Levy supplements with passages from the Midrash and the Gemara.<sup>82</sup>

5. The death which is threatened as a consequence of the eating carries, according to Levy, pronounced sexual implications. The physical relaxation after coitus suggests death.<sup>83</sup> Celsus is quoted, "*Seminis emissio est partis animae jactura.*" Declining sex power is the sign of advancing age and approaching death.<sup>84</sup> Plants wither after they bear fruit. The old generation dies out after producing the new.<sup>85</sup> Death sometimes results from childbirth. Our author finally alleges that the wish for *coitus* is in dreams sometimes signified by death.<sup>86</sup>

6. Eden which means "delight" suggests sexual delight. Rashi is quoted on the resemblance between Eden and a man's wife.<sup>87</sup>

<sup>78</sup> *Ibid.* The Latin sources cited by Levy are Horace I Serm. 8, 1; Martial VII-LXX, 1. It should be VII-LXXI, 1.

<sup>79</sup> Levy, *op. cit.*, p. 25.

<sup>80</sup> *Ibid.*, p. 27.

<sup>81</sup> If the forbidden fruit be wine (Gen. Rab. XV, 8; San. 70a end), the connection with sex would be still easier to establish. Cf. "Baccho et Venere." Levy's reference to San. 29b appears to be an error.

<sup>82</sup> Ket. 65b on Prov. 30.20. I can not find the reference to Sab. 63b given in *Imago*, V, 19. The other references are: Gen. Rab. LXXXVI end, *lehem asher hu okel*. Num. Rab. IX, 2, *mipitteka akalta umikoseka shatita*. Gen. Rab. XV, 8 and San. 70b top connect immature childhood with the inability to eat wheat.

<sup>83</sup> Levy, *op. cit.*, p. 22, refers to W. Stekel, *Die Sprache des Traumes*, p. 94.

<sup>84</sup> Levy, *op. cit.*, p. 24.

<sup>85</sup> *Ibid.*, p. 22.

<sup>86</sup> *Ibid.*, p. 23.

<sup>87</sup> *Ibid.* Levy might have cited the word 'edna in Gen. 18.12 and the interpretation of *petigil* (Isa. 3.24) in Sab. 62b. Rashi in Ber. 57a on *mubtah lo shehu ben 'olam haba* states that Eden resembles a man's wife.

7. The serpent is a phallic symbol:

a.) The snake issuing from holes appears to be a treasure guardian.<sup>88</sup> Treasure—such appears to be Levy's construction—suggests that which is highly desired and this in turn suggests *coitus*. Again treasure suggests temptation and thus again *coitus*.

b.) The snake is asserted to be an erotic symbol in dreams and in neurotic phantasies.<sup>89</sup>

c.) Figuring in Greek orgies is a golden snake in a box or a snake drinking water out of a bowl, where box and bowl symbolize the female sex anatomy.<sup>90</sup>

d.) A snake winds around the staff of Esculapius who, being a healer, is a conqueror of death. Procreation is likewise a conquest of death.

e.) In Roman folklore, the genii that guard the marriage bed are snake demons or beings that carry snakes.

f.) North Transvaal maidens have a ritual in which they dance around a lime snake, blow a fire and then carry on their backs the figure of a child.<sup>91</sup>

g.) In the Suaheli language, the word for "snake" is the same as the word for "penis."<sup>92</sup>

h.) A Jewish legend holds that the snake mediates the seduction of Eve by Satan.<sup>93</sup>

8. On the principle of *middah keneged middah* highly emphasized in Hebrew antiquity, the curses imposed for eating the forbidden fruit point clearly to sex dereliction.<sup>94</sup>

<sup>88</sup> Levy, *op. cit.*, p. 25 refers to "The Symbolism of the Serpent" in *International Journal of Psychoanalysis* (1926), VII, 2. It was not possible to find this article at the place indicated.

<sup>89</sup> Cf. also Major J. W. Povah, "The New Psychology and the Hebrew Prophets", p. 135. (London: Longmans Green & Co., 1925.)

<sup>90</sup> Levy, *op. cit.*, p. 25 refers to Barbara Renz "Schlange und Baum als Sexualsymbole in der Voelkerkunde," *Archiv fuer Sexualforschung* I, 2, 342.

<sup>91</sup> Levy, *op. cit.*, p. 26.

<sup>92</sup> *Loc. cit.*

<sup>93</sup> The author refers to Bousset, *Die Religion des Judenthums im Neutest. Zeitalter*, p. 496. Slavonic Enoch 29. 4 and 31. 3 represents Satan as the seducer of Eve. Gen. Rab. XVIII end reads: (*hanahash*) *mitok shera'ah otan misassekin bedabar aher nitaweih lah*. The correct passage is Slavonic Enoch 31. 6.

<sup>94</sup> Levy, *op. cit.*, p. 28.

The snake is to crawl on his belly.<sup>95</sup> Levy thinks of the French *courir sur le ventre* for the sex act. The snake's eating of earth suggests the sex symbolism of eating already noted in point 4, above. Earth, as we shall presently notice, symbolizes the female member in the sex relationship.

The birthpains of the woman have an obvious relation to sex.

By a few metaphorical removes, the penalty imposed on the man refers also to sex. Plowing the earth is an obvious symbol for *coitus* (see *infra* pp. 637, 638). Earth is something female as the invariable feminines *Adamah*, *Erez*, *Terra*, *Erde* indicate. Offspring are spoken of as *Zera'*, seed and children as *Peri*, fruit. Of Esther the Talmud says, "*Karka' 'Olam hayeta.*"<sup>96</sup> Adam's punishment, the toil of plowing, thus comports with the sexual plowing which was his misdeed.

Such are adduced by Levy to show the libidinous implication of the Paradise story. Levy holds that prophetic attempts to substitute an ethical religion for heathen fertility cults required a subordination of sex.<sup>97</sup> There resulted the ambivalence: the natural sex inclination on the one hand and, on the other, a deprecation of sex. This, according to Levy, is what the Paradise story conveys.

## B.

Georg Langer argues for a primary sexual implication of the *Mezuzah*.<sup>98</sup> His thesis is that the *Mezuzah* is a modified phallus, the door to which it is affixed being a vagina symbol. He reasons as follows:

1. Throughout the primitive world posts, stakes or staves in front of houses, especially near the doors, possessed a phallic implication. Langer quotes Hastings to the effect that holy door

<sup>95</sup> Levy might have added a reference to Sotah I, 7 on the swelling of the thigh and the abdomen. On the entire doctrine of *middah keneged middah*, Sotah I, 7-9.

<sup>96</sup> Sanhedrin 74b.

<sup>97</sup> Levy, *op. cit.*, p. 30. It was not possible to obtain a copy of Levy's study of the sex symbolism of the Samson story mentioned *Imago*, V, 19 and of the stone casting (Eccles. 3.5) in his commentary on Ecclesiastes.

<sup>98</sup> "Zur Funktion der Juedischen Tuerpfostenrolle" *Imago*, XIV, 457-468.



posts among the Phoenicians had phallic attachments.<sup>99</sup> He quotes Otto Stoll that the Abyssinians affix to their door posts the amputated and stuffed genitals of their enemies,<sup>100</sup> Langer being reminded here of I Sam. 18.25 where David's men secure the Philistine foreskins and—*wayemalle'um* (stuffed them?). Langer further recalls that the Greeks and Romans had in front of their houses stone or wood posts called Hermes or Priapos posts, with phallic appendages. He thinks that something similar is implied by the word *yad* in Isa. 57.8 as well as by the *ammot* of Isa. 6.4; *ammah* being "phallus" as well as "cubit" and "column," somewhat like the English word "yard" which, according to Ernest Jones, is nautical slang for "phallus."<sup>101</sup> Langer also quotes F. Starr that certain American Indian tribes had a sacred staff stuck in the ground in front of their domiciles.<sup>102</sup> This staff would be wrapped up—like a *Sefer Torah*—when carried along on journeyings. From Benzinger, Langer gathers that among polyandric Arabic tribes a man visiting a woman places his staff in front of her tent.<sup>103</sup>

2. With these phallic posts or stakes or staves, the *Mezuzah* has in common not only its position near the door but also various other features:

a.) The inscription. Inscriptions stood on the Priapos posts of the Greeks and Romans.<sup>104</sup> Sometimes the post was discarded and the inscription marked on the side panel of the doorway, just as sometimes the head of Priapos would be attached near the door when the post representing the body had been abandoned. According to Jeremias, Babylonian boundary posts bore curse inscriptions.<sup>105</sup> Similarly inscribed posts, we are informed, are reported by A. Morel as existing in Egypt.<sup>106</sup>

<sup>99</sup> Hastings, *Encyclopedia of Religion and Ethics*, X, 96, article, "Poles and Posts." The article is by George A. Barton.

<sup>100</sup> *Geschlechtstleben in der Voelkerpsychologie*, (Leipzig, 1908.)

<sup>101</sup> "Die Theorie der Symbolik," *Internationale Zeitschrift fuer Psychoanalyse*, Band V, S. 257. How about *yado* in Cant, 5.4?

<sup>102</sup> *American Indians*, p. 195ff.

<sup>103</sup> *Hebraeische Archaeologie*, III Auf., S. 113.

<sup>104</sup> Langer, *op. cit.*, p. 460.

<sup>105</sup> *Ibid.*, p. 463. Jeremias, *Handbuch* S. 118ff.

<sup>106</sup> Morel, *Mystères Egyptiens* (Paris 1922), p. 16.

b.) The apotropaic character of the *Mezuzah* resembles that of the Hermes posts of the Greeks and similarly placed sticks among African Negroes, as reported by Frobenius<sup>107</sup> and among the Melanesians, as reported by R. H. Codrington.<sup>108</sup>

c.) The Talmud refers, albeit disparagingly, to the practice of attaching the *Mezuzah* to a staff.<sup>109</sup> The passages are *Menaḥot* 32b and *Kelim* XVII, 16. The practice mentioned in *Kelim*—a staff with a *Mezuzah* enclosed—resembles the present oriental practice of sinking the *Mezuzah* into the side panel of the doorway. Langer surmises that the Talmudic objection to a staff-*Mezuzah* betrays its heathen character and its relation to the heathen notions mentioned above.<sup>110</sup>

d.) The truncated size of the *Mezuzah*, like the wrapping of the *Sefer Torah*,<sup>111</sup> has a castration significance.<sup>112</sup> Langer refers to the female attire and the female role of males castrated in the Cybele cult as well as among the Mujaredo Indians, Hindus etc. Back of this "castration," depriving the *Mezuzah* of everything but its apotropaic powers, Langer surmises a transition from a gynocratic to an androcratic form of social organisation.<sup>113</sup>

3. The door is a female sex symbol.<sup>114</sup> Langer quotes *Ketubot* 10a, "I found an open door" (i.e. "my bride is not a virgin") and "Thou hast torn out door and bolt" (i.e. "Thou hast been sexually too vehement").<sup>115</sup> Langer understands, in this light, the blood sprinkled on the door posts in *Exod.* 12.21-30. "Der

<sup>107</sup> Frobenius, *Allerlei aus Volks-und Menschenkunde*.

<sup>108</sup> Codrington, *The Melanesians* p. 174, also Hasting's, *Encyclopedia*, X, 96.

<sup>109</sup> Langer, *op. cit.*, pp. 461, 462.

<sup>110</sup> *Op. cit.*, p. 462.

<sup>111</sup> "Eine Analogie bietet schliesslich auch die juedische Gesetzrolle, deren phallische Stabgestalt in ein Frauenkleid (*mitpacha*) gehuellt wird." *Op. cit.*, p. 465.

<sup>112</sup> *Ibid.*, p. 464.

<sup>113</sup> *Ibid.*, p. 465.

<sup>114</sup> A similar idea is quoted from Dr. Hans Sachs in Reik's "Die Tuerhueter," *Imago*, V, 349, that "fuer das Unbewusste die Schwelle die Vagina ebenso wie das Haus den weiblichen Koerper bedeutet."

<sup>115</sup> Langer might have found additional examples in Levy's *Talmudisches Woerterbuch*, under the word "*petah*."

Daemon empfindet vor dem 'Betreten' des mit Blut bestrichenen Hauses denselben Abscheu wie der Primitive vor dem Verkehr mit der Frau in der Menstruationzeit."<sup>116</sup> The blood on the threshold would thus have the same apotropaic character as the phallic posts or staves mentioned above.

Langer is impressed by the etymologic resemblance between *miftan*, "threshold" and *peten*, "viper," the viper being like any serpent a phallic symbol. Similarly in I Sam. 5.4,5, Dagon the fish is brought into connection with the threshold; and fish also is a phallic symbol.

The burial of children at the gates of a newly founded city (I Kings 16.34) suggests to Langer a uterus character in the gates. He further adduces from Bachofen "die etruskische Sitte an dem Tuerpfosten des Grabes das weibliche Spurium abzubilden."<sup>117</sup>

Finally Langer instances Indian and Russian folktales about talking door posts.<sup>118</sup> In the Russian tale, the door posts simulate the voice of a girl who, in order to cover her escape, left at the door posts some of her sputum. "Speichel ist aber wie aus der Psychoanalyse bekannt . . . ein Spermasymbol . . . das Haus und die Tuer . . . ein Symbol des weiblichen Genitales."<sup>119</sup>

4. The sexual is further intimated in the passage, Menahot 31b which, speaking of the distribution of the letters and words on the *Mezuzah*, says that the formation must not be that of a *kubbah* and must not be that of a tail. Langer observes that *kubbah* means "abdomen" and "*Freudenhaus*" as well as "tent."

5. The requirement that if there be a *Mezuzah* in a room in which sexual intercourse occurs, the *Mezuzah* be covered and

<sup>116</sup> Langer, *op. cit.*, p. 464. Considering the word "*ba*," Exod. 12.23, Langer notices its implication of "cohabit" as in Gen. 29.21b; 35.16b, 18b, etc. On the repulsiveness of menstruation, Lev. 15.19-33; 18.19; 20.18.

<sup>117</sup> The reference to Bachofen is Band I, S. 325.

<sup>118</sup> Langer, *op. cit.*, p. 463.

<sup>119</sup> *Ibid.* On the psychoanalytic point, Langer's reference is the works of Abraham and Ferenczi in *Internat. Zeitschrift fuer Psychoanalyse*, Band. IV, S. 71ff. Band IX, S. 67. Ferenczi tells of a woman whose mouth watered when the physician brought his head near to examine her heart. Abraham tells of a patient who spoke of mouth "pollutions" which he afterward associated with the erogenous.

rendered invisible<sup>120</sup> Langer explains as due to the fact that "Der drohende Vaterphallus mobilisiert die Kastrationsangst und verhindert dadurch die sexuelle Betaetigung."<sup>121</sup> He holds it to be the same father-penis character with its implied threats and penalties that ensures to the *Mezuzah* its apotropaic potency.<sup>122</sup> We shall later in this study treat this conception more in detail when, in connection with the Oedipus Complex, we consider the notion of paternal hostility.

Langer maintains that it is not the contents of the *Mezuzah* that provide its apotropaic potency, there being in the Biblical passages used naught of an apotropaic character.<sup>123</sup> Rather is it the *Mezuzah* that invests these passages with qualities apotropaic. Langer finally admits: "Allerdings ist es infolge des langen, intensiven, Verdraengungsprozesses nur recht wenig was vom ursprunglichen phallischen Charakter uebrig blieb; die apotropaeische Kraft, wie sie die roemischen Priaposinschriften, die babylonischen Kudurrugrenzsteine, die afrikanischen und indianischen Totemstaebe und Phalli am Eingang der Wohnstaetten hatten: und ihre laengliche Form."<sup>124</sup>

### C.

We now come to Allwohn's study of the prophet Hosea.<sup>125</sup> Allwohn contends that the prophet was impelled by an unconscious urge toward sensuality and at the same time by a contrary urge toward sex restraint.

Evidences of the sensual are his subjection to the lure of whoredom<sup>126</sup> as shown by his marriage with a harlot and at the same time his furious denunciation of harlotry.<sup>127</sup> Allwohn points out that persons given to fierce censures of moral laxity may

<sup>120</sup> See Yoreh De'ah 286, 5, the Be'er Heṭeb to *nir'et*.

<sup>121</sup> Langer, *op. cit.*, p. 468.

<sup>122</sup> *Ibid.*, p. 465.

<sup>123</sup> *Ibid.*, pp. 466, 467.

<sup>124</sup> *Ibid.*, p. 467.

<sup>125</sup> *Die Ehe des Propheten Hosea in Psychoanalytischer Beleuchtung* (Giessen, 1926.)

<sup>126</sup> Allwohn, *op. cit.*, p. 62.

<sup>127</sup> *Ibid.*, pp. 64, 65. Allwohn agrees with the scholars who regard the marriage with a harlot as real and not merely rhetorical. *Op. cit.*, p. 66.

be themselves inclined toward moral laxity, their excoriations of others being at bottom a grapple with their own proclivities. Hosea betrays an unusual preoccupation with sex.<sup>128</sup> He is influenced not a little by concepts derived from Baal worship with its proverbial sensuousness—for instance the idea of a marriage between the deity and the land.<sup>129</sup> Allwohn thinks that the sensuous longings were awakened in Hosea by the sight of the Baal religion notwithstanding his aversion to that cult.<sup>130</sup> According to Allwohn the repressed tendencies become active when in ecstasy there is a “narrowing of consciousness” and a suspension of conscious control.<sup>131</sup>

The other member of the ambivalence is exhibited in the prophet's restlessness and in the ecstasy resultant from that restlessness.<sup>132</sup> Such restlessness, according to Allwohn, indicates that sex impulses have been repressed and are seeking “abreaction.” Also to be noted is the prophet's zeal for Yahweh, the God of chastity,<sup>133</sup> the conversion of the inclination to marry a whore into a Divine command to marry a whore<sup>134</sup> and the subsequent application of it all to the relations of Yahweh and Israel.<sup>135</sup> The denunciations of harlotry, while divulging sensuous desires, also exhibit a struggle against and a substitution (*Ersatzbildung*) for those desires.<sup>136</sup> The censorious names given the children, by expressing disparagement of the mother, imply a revulsion

<sup>128</sup> *Ibid.*, pp. 56, 63. Allwohn lists the sex allusions of Hosea as follows:

2.4–15, especially 5, 7, 12.

4.2, 10–14, 15, 17. On *kalon* in vv. 7, 18 cf. Jer. 13. 26.

5.3, 7. As in Chap. 6, v. 7 *bagad* is the same as *na'af*.

6.7, 9 (*zimmah*).

7.14a. Do not emend to *mizbehotam*.

9.1, 9, 10 (*boshet* as in Chap. 10, v. 6), 11, 14.

10.6, 9.

12.15 (*herpah*).

<sup>129</sup> Allwohn, *op. cit.*, pp. 56, 60.

<sup>130</sup> *Loc. cit.*

<sup>131</sup> *Ibid.*, pp. 60, 72.

<sup>132</sup> *Ibid.*, pp. 60, 61, 63.

<sup>133</sup> *Ibid.*, p. 56.

<sup>134</sup> *Ibid.*, p. 60.

<sup>135</sup> *Ibid.*, pp. 62, 63, 64, 66.

<sup>136</sup> *Ibid.*, p. 63.



toward the unchastity associated with the mother.<sup>137</sup> Gomer, the focus of the unchastity is, at length, definitely repudiated.<sup>138</sup>

This conflict of sensuousness and chastity is the starting point for Hosea. There gradually developed in him a diminution of the sensuous and an augmentation of chastity or rather of the Yahweh zeal identified with chastity.<sup>139</sup> This reduced the tension of the conflicting urges and thus prepared the way for the final step, that of sublimation i.e. the transmutation of sensuousness into love. Love is, as it were, the force resultant when, chastity dominating, chastity and sensuousness combine.

Allwohn thinks that the relaxation of the tension may have occurred during the few years that elapsed between Hos. 2.4 and 3.1.<sup>140</sup> He surmises that the absence of any reference to harlotry in the name "Jezreel" shows a temporary abatement of the sensuous inclination<sup>141</sup> and that the intensification of the Yahweh zeal—intensification in fact up to the point of expelling Gomer—appears in passages like Hos. 1.9 and 2.4.<sup>142</sup>

Our author then traces the unfolding of Hosea's purified love, step by step, from embryonic obscurity until, at the end of chapter 3 it is full blown. First there are the children and children commonly improve the relations between husband and wife.<sup>143</sup> Hosea was fond of children as Hos. 11.1 intimates. In the name "Lo Ruhamah" at least the expectation of love is expressed. In Hos. 2.4-15 the prophet's sensuousness toward Gomer metamorphizes into affection, his anger here being due to nothing so much as to the disillusionment which his affection encounters.<sup>144</sup> While in 2.9, 10 he is still egoistic, in 2.17ff. and 3.1 he is so far from egoism that he is willing to forego the reciprocation of his love.<sup>145</sup> He finally announces that the marital deprivations are to be but temporary and that in due time full marital satisfaction will prevail.<sup>146</sup>

<sup>137</sup> *Ibid.*, p. 33, 66.

<sup>138</sup> *Ibid.*, p. 70.

<sup>139</sup> *Ibid.*, pp. 66, 68.

<sup>140</sup> *Ibid.*, p. 71.

<sup>141</sup> *Ibid.*, p. 66.

<sup>142</sup> *Ibid.*, p. 71.

<sup>143</sup> *Ibid.*, p. 69.

<sup>144</sup> *Ibid.* Expressive of affection are vv. 2, 9b, 16, 17.

<sup>145</sup> *Ibid.*, p. 70.

<sup>146</sup> The temporary character of the marital deprivations is seen by Allwohn in the words *yamim rabbim* 3. 3; complete national satisfaction in chap. 3, vv. 4, 5.



Allwohn then shows that a reading of the same process is obtainable from the God conceptions whose unfolding parallels that of the relations between Hosea and his wife. At the outset Yahweh is the angry husband of whoring Israel.<sup>147</sup> But Hos. 2.4-15 exhibits a fluctuation between Divine wrath and tender yearning.<sup>148</sup> Gradually Yahweh's punishment gets to be something reformatory and disciplinary,<sup>149</sup> arousing the conscience and eliciting affectionate return.<sup>150</sup> With the alteration of the children's names, God is conceived as forgiving, ameliorative and increasingly bounteous.<sup>151</sup> At length just as there is to be full marital satisfaction in the prophet's life so is there to be under Yahweh complete national satisfaction. While in Hos. 1.2 the prophet's desire and Yahweh's are in conflict, in Hos. 3.1 they are harmonized.

Hosea, according to Allwohn, effected a synthesis between a Yahweh religion of austerity and a Baal religion of fertility and geniality.<sup>152</sup> At first lust conflicts with abstemiousness, Baal with Yahweh. The solution lay in the conversion both of lust and of abstemiousness into love. Yahweh thus became the God of Love.

#### D.

A few minor observations of Biblical material remain to be mentioned. Ludwig Levy discerns a sex symbolism in the Biblical shoe rituals of Deut. 25.9 and Ruth 4.7; the shoe representing the female and the foot the male sex factor.<sup>153</sup>

Felix Kanter calls attention to an inadvertent betrayal of sex

<sup>147</sup> Allwohn, *op. cit.*, p. 70.

<sup>148</sup> The vacillation between verses 4 and 6, between 5 and 12, and between 7b, 8 and 10 is particularly noted.

<sup>149</sup> Allwohn, *op. cit.*, p. 70. The verses cited are 2, vv. 8, 9, 16, 17.

<sup>150</sup> The verses cited are 2, vv. 18, 19.

<sup>151</sup> The alteration of the children's names in 2 vv. 3, 24, 25. Amelioration in 2, vv. 1-13, 17, 25. Bounty in 2, vv. 20, 21, 23, 24.

<sup>152</sup> Allwohn, *op. cit.*, p. 75. Allwohn holds that even in the idea of a severe God, some intimation of love is not altogether absent. At least through cults and rituals can the favor of such a deity be won (p. 72).

<sup>153</sup> "Die Schusymbolik im juedischen Ritus," *Monatschrift*, Jahrgang, 62 pp. 182-184.

desire on the part of Ruth in Ruth chapter 2.<sup>154</sup> Speaking to Naomi, Ruth reports (v. 21) that Boaz had directed her to keep near the young men. Naomi (v. 22) corrects this to "near the young women," which was indeed what Boaz (v. 8) did say. "Ruth" observes Kanter, "war . . . ein junges und wie es scheint begehrendes Weib das mit dem Leben durchaus nicht abgeschlossen hat."<sup>155</sup>

### E.

We now leave the Biblical domain and come to other examples of conflict involving heterosexual desires. This brings us to Reik's discussion of the Jews and Jesus.<sup>156</sup> Reik finds much here that is symptomatic of sex repression. He recalls that in traditional Jewish conceptions of Jesus obnoxious aspects of sex figure extensively.

Thus Mary is in the "*Toledoth Jeshu*" represented as an adultress.<sup>157</sup> "*Parthenos*," virgin is distorted into "*Pantheros*," a Roman soldier, the supposed paramour of Mary.<sup>158</sup> Mary is also called a *niddah*, a woman who violated the law against menstruous cohabitation.<sup>159</sup> To this the pictorial red hair of Jesus is said to be related.<sup>160</sup> Again Mary is regarded as a harlot, the harlot Mary Magdalene being her "duplicate."<sup>161</sup> The Jewish circumlocutions for the name of Jesus resemble, in Reik's opinion, the forgetting to which the mind subjects the sexually revolting.

Reik offers as an illuminating parallel the case of a young woman who, on a certain occasion, was unable to recall the name of the book "Ben Hur." In a company of persons who were conversing about the origins of Christianity, this young woman stated that "she had found in a certain English novel a

<sup>154</sup> "Die Psychoanalyse in der Bibel" in Hickl's *Illustrierter juedischer Volkskalender*" 5688, p. 115.

<sup>155</sup> Kanter, *op. cit.*, p. 115.

<sup>156</sup> *Der Eigene und der Fremde Gott* (Imago Buecher III, Leipzig, Wien, Zuerich, 1923), Chap. I.

<sup>157</sup> *Ibid.*, p. 19.

<sup>158</sup> *Ibid.*, p. 23.

<sup>159</sup> *Ibid.*, p. 21.

<sup>160</sup> *Ibid.*, p. 22.

<sup>161</sup> *Ibid.*, p. 25.

fascinating depiction of the many religious forces active in that day," a novel in which "the life of Christ is delineated from his birth to his death."<sup>162</sup> Yet neither the young woman nor anyone else in the company was able to recall the title. Reik who was present undertook to explain this forgetfulness psychoanalytically. In the young woman he unearthed the following associations:<sup>163</sup>

Ecce Homo. (Erroneous guess at the name of the book).

Homo is "Mensch" in German.

"Mensch" is vulgar Viennese for "prostitute."

Three kings who visited the Christ Child.

Three kings, "drei Koenige" is argot for menstruation.

Menstruation suggests virginity.

Ben Hur. (Correct name of the book).

"Hur" is German for prostitute.<sup>164</sup>

The mother of Jesus was a prostitute.

Reik claims that in the case of the young woman the wish suppressed<sup>165</sup> was her unconscious desire to identify herself with Mary i.e. to be a prostitute and likewise the desire to have children without male intermediation.<sup>166</sup> The analogous Jewish deprecations of Mary and Jesus are said by Reik to involve similar repressions.<sup>167</sup>

Dr. Felix Kanter calls psychoanalytic attention to name

<sup>162</sup> *Ibid.*, p. 2.

<sup>163</sup> The young woman was the only one in the group willing to be psychoanalyzed. A casual remark by the author (p. 18) vaguely intimates that the young woman was a Jewess.

<sup>164</sup> *Op. cit.*, p. 24. Reik compares the young woman's change of the word "Hur" from a father's name to a maternal appellative with the reverse process by which Jewish diatribes make of "Parthenos" (the maternal appellative) "Pantheros" the father's name. Reik compares the "*Ben Ish*" of the Talmud with the "Ecce Homo" of the girl's guess (p. 18). He also dwells upon the use of two languages in the young woman's "Ben Hur" and in the Rabbis' "Ben Pantheros" (p. 29).

<sup>165</sup> "Unbewusst setzt sie das Aussprechen von Ben Hur einem sexuellen Angebot gleich und ihr Vergessen entspricht demnach der Abwehr einer unbewussten Versuchung dieser Art" (p. 69).

<sup>166</sup> *Ibid.*, p. 8, footnote.

<sup>167</sup> *Ibid.*, p. 217. Speaking of the uncanniness of Jesus and Mary for the Jew, Reik sees "in diesen Gefuehlen die seelische Reaktion auf ein aus der Verdraengniss Wiederkehrendes."

repressions in the brothers with reference to Joseph and in Saul with reference to David.<sup>168</sup> Kanter points out that, excepting in two passages, the brothers of Joseph never say "Joseph." They say "dreamer," "brother," "the youth," "his son." Only after the reconciliation do the brothers say "Joseph."<sup>169</sup> Similarly Saul avoids mentioning David's name. "Son of Jesse" is his usual appellation. Saul says "David" only before the quarrel and after the reconciliation.<sup>170</sup> While these observations posit no sex factors, they can best be mentioned here because of the name suppression upon which they bear. We may also add in this connection that Stekel comments on the psychoanalytic correctness of the interpretations that the brothers accord to the dreams of Joseph.<sup>170</sup>

Finally Georg Langer contends that in many folklores fire has been found to be a sex symbol.<sup>171</sup> He recalls that L. Levy in his "*Sexualsymbolik der Simsonsage*"<sup>172</sup> sees such in the fire-brands of Samson's foxes as well as in the foxes themselves. Langer connects with this the promise in Sab. 24b that, for fidelity in kindling the Sabbath and Hannukah lights, learned sons will be the reward.

### III. HOMOSEXUALITY AND NARCISSISM

#### A. HOMOSEXUALITY

Only to a scant degree does the literature before us utilize the concept of homosexuality.

Dr. Ludwig Levy sees in the *Keleb* of Deut. 23.19 a sacred

<sup>168</sup> Dr. Felex Kanter in Zwittau Maehren, "Die Psychoanalyse in der Bibel" in Hickl's *Illustrierter Juedischer Volkskalender fuer das Jahr 5688—1927—1928*, 27 Jahrgang. Juedischer Buch-und Kunstverlag Bruenn Orli 9, pp. 112—115.

<sup>169</sup> Kanter refers to Gen. 45.26 and 50.15, 16 (perhaps 17 ?).

<sup>170</sup> Kanter refers for "Son of Jesse" to I Sam. 20.27, 30, 31; for "David" to I Sam. 16.22; 18.8; 24.17; 26.17, 21. We can not readily accept Kanter's application of 18.8 and of 24.17. In 18.8, Saul uses the name "David" although enraged at David. In 24.17, the name "David" is used not by Saul but by the narrator. The passage from Stekel is *Die Sprache des Traumes* (1922), p. 7. It has been said that Robert E. Lee never mentioned the name of Grant, his opponent, but always referred to him as "that man."

<sup>171</sup> Georg Langer, "Die juedische Gebetriemen" *Imago*, XVI, 1930, 475, 476.

<sup>172</sup> *Zeitschrift fuer Sexualwissenschaft* Bd. III H.6—7.

pederast.<sup>173</sup> He refers to Rev. 22.15 where "dogs" are listed with fornicators, murderers, idolators and "everyone that loveth and maketh a lie." He connects the name "dog" with the homosexual *coitus more canino*, recalling that the very verb *raba'* applied in the Talmud to homosexual relations is used for the sex act of animals ordinarily.<sup>174</sup> The dog moreover is with the Hebrews a despised animal and is deemed a shameless animal since it cohabits openly in the street.<sup>175</sup> Finally, with more specific reference to psychoanalysis, Levy quotes W. Stekel that the dog is regarded as a homosexually inclined animal.<sup>176</sup>

Related to homosexuality is masochism, the tendency feminine rather than masculine to obtain libidinous pleasure from undergoing certain kinds of pain. A touch of such masochistic self infliction is seen by Reik in circumcision.<sup>177</sup> Circumcision also has the implication of castration, emasculation and hence feminization.<sup>178</sup> Reik recalls in this connection children's theorizings about the possibility of changing the male into a female.<sup>179</sup>

Further illustrative of masochism Reik finds the endless Jewish references to the sufferings of the Jew and to the justifica-

<sup>173</sup> "Hundegeld," *Imago*, VI, 396, 397.

<sup>174</sup> Levy refers to Sanhedrin 9b. He might have added San. 70a. A slightly divergent view is that of Gen. Rab. XX, 5 which lists the dog with the animals." "*Shemeshammeshim ahor keneged ahor.*"

<sup>175</sup> Levy's references are II Sam. 9.8, II Kings 8.13, Matt. 15.26.

<sup>176</sup> *Die Sprache des Traumes*, p. 128. In the 1922 edition, pp. 106, 108.

<sup>177</sup> *Der Eigene und der Fremde Gott*, p. 71. Circumcision, aside from being painful in itself, exposes the Jew to derision and opposition (p. 213). Reik (p. 210, footnote 1) quotes Freud's *Sammlungen Kleiner Schriften zur Neurosenlehre* 3. Folge p. 26 as quoting Weininger to the effect that, reducing his sexual appendages by way of circumcision, the Jew suffers a deprecation in common with that of woman. Our author might have quoted the rhyme with which gentile boys in Germany jeer at Jewish boys,

"Jude Mosche  
Katze dosche  
Lange Finger  
Kurze . . ."

<sup>178</sup> Reik, *op. cit.*, p. 72. Reik might have mentioned the mediaeval superstition that Jewish males menstruate.

<sup>179</sup> *Op. cit.*, pp. 209, 210.



tion of those sufferings as a punishment for sin.<sup>180</sup> Hostile nations and kings who are viewed as Divine instruments for the punishment of Israel become like Cyrus themselves almost divine.<sup>181</sup> Reik suspects that there has even been in Jewish conduct something that masochistically invites persecution.<sup>182</sup>

Then there is the conception of suffering as the evidence of Divine love and as being almost a blessed end in itself.<sup>183</sup>

The Jewish doctrine of Israel's election also has masochistic components according to Reik, among them the masochistic enjoyment of circumcision.<sup>184</sup> In the unconscious presumably, the masochistic thrill resultant from suffering is equated with the thrill of occupying a privileged position.<sup>185</sup> Reik also speaks of a Jewish self-disparagement which he connects with a "sadistic castration fear" and which he treats as a kind of alternate or derivative of the masochistic self-adulation.<sup>186</sup> Psychoanalysts affirm a close interconnection between sadism and masochism, the one being rarely absent where the other is present.<sup>187</sup>

<sup>180</sup> *Ibid.*, p. 73. A young American Jew, Albert Weinberg, anticipated Reik in these surmises in "The Enemy within Ourselves," *Menorah Journal* Vol. IV, June 1918, pp. 186-194.

<sup>181</sup> Reik, *op. cit.*, p. 209.

<sup>182</sup> *Ibid.*, pp. 71, 236.

<sup>183</sup> *Ibid.*, pp. 236, 237. Reik might have instanced Ps. 94.12; 119.75. Job 5.17; Judith 8.25; II Macc. 6.16; Heb. 12.6; Rev. 3.19 as well as "*semehim beyissurin*" (Yoma 23a, 36b, Sab. 88b) and the "*yissurin shel ahavah*" (Ber. 5a). "In der Auffassung der Strafe als Liebesbeweis erkennen wir den theologisierten Ausdruck von libidinoesen Regungen welche im individuellen Seelenleben entscheidende Beiträe zu typischen Schlagephantasien der Pubertät liefern, welche die inzestuoese Liebesbeziehung zum Vater zur Ziel haben."

<sup>184</sup> *Ibid.*, pp. 205, 206, 208.

<sup>185</sup> "Wir stossen hier wieder auf die masochistische Form des Auserwähl-glaubens die gerade durch das Leiden bestäetigt wird" (p. 236).

<sup>186</sup> *Ibid.*, pp. 208, 215.

<sup>187</sup> As long as we can identify ourselves with others and others with ourselves, masochism and sadism are obviously interchangeable. The matter is discussed *op. cit.*, pp. 228, 229, 230, 236. Reik reports that neurotics often show a combination of the afflicter and the afflicted (p. 228). Reik uses in this connection the term "equivalence" which he defines as "die Thatsache, dass die psychische Auswirkung des einen Teiles eines Triebgegensatzpaares einer gleichzeitige Wirkung des anderen ergaenzenden Teiles voraussetzt" (p. 229). In a foot note on p. 228 he instances a similar equivalence of exhibitionism and voyeurism. Both sadism and masochism, he thinks, have a common root in the baby's desire to gain power over its own body (p. 232).



According to Reik, there is likewise something masochistic about the rigidities of the Jewish law and consequently in the Jewish resistance to Christ who embodies the release from those rigidities and a negation of the masochistic feminine attitude.<sup>188</sup>

Reik finally indulges in surmises regarding the historical origin of these homosexual and masochistic strands. It is one of his conjectures that the suppression or the absence of a mother goddess in Judaism resulted in attaching to Jehovah homosexually the libido that a mother goddess would otherwise have attracted.<sup>189</sup> Again, while some persecution may have been masochistically invited by the Jew, much of his homosexuality may have been the result of persecution. Reik speaks of wounded Narcissism and the circumstance that libido repelled and diverted from the self attached to Jehovah.<sup>190</sup> Reik also appears to surmise in this masochism a kind of Jewish vindictiveness toward the God that sent or permitted the sufferings of the Jews. He says something to the effect that a love object which disappoints is "taken up into the I and penalized" one part of the I being maltreated by the other.<sup>191</sup> Moreover, masochism in the persecutor may also have been operative; persecutors sometimes enjoy the pain of their victims by placing themselves imaginatively in their victims' place.<sup>192</sup>

## B. NARCISSISM

Narcissism is the name for sex feeling directed toward one's own person. Related to it according to Reik is the assumption of "the omnipotence of thought" (*Allmacht der Gedanken*). Reik holds that, in the life of the infant, the self and the not-self are originally one.<sup>193</sup> At a time when the self is not yet confronted by an

<sup>188</sup> *Ibid.*, p. 71. Reik maintains that when Christ had created the rigidities of the Catholic system, he was in turn overthrown by Luther.

<sup>189</sup> *Ibid.*, p. 63.

<sup>190</sup> *Ibid.*, p. 207. Oscar Pfister in *The Psychoanalytic Method* translated by C. R. Payne (New York 1917), is persuaded that Amos, Hosea, Isaiah, Micah and Jeremiah sought "a transformation of the libido into social activity."

<sup>191</sup> *Ibid.*, p. 208.

<sup>192</sup> *Ibid.*, p. 235.

<sup>193</sup> "Erst spaet sondert sich ein Teil des Ur-Ichs ab und stellt sich als Aussenwelt dem Ichrest (secundaren Ich) gegenueber" (p. 234).

intractable not-self, a sense of the omnipotence of thought could easily develop.

He contends that the separation of the not-self from the self must have been resisted by the original unity.<sup>194</sup> Certain aspects of religious persecution, he thinks, show vestiges of that primordial resistance.<sup>195</sup>

He further believes that the original unity of the not-self and the self underlies the phenomenon that the pain inflicted on others can be masochistically enjoyed as though it were inflicted on one's self, the bearing of which phenomenon on religious persecution has just been noticed.<sup>196</sup>

Reik specifies a number of theological consequences that flow from the *Allmacht der Gedanken*. One is the belief in the efficacy of prayer. Between wishing and obtaining, *Allmacht der Gedanken* admits no gap.<sup>197</sup> Another is the belief in the sinister efficacy of the bad intentions attributed to the followers of the opposing religions; by *Allmacht der Gedanken* desiring ill is the same as inflicting ill.<sup>198</sup>

Closely bound up with *Allmacht der Gedanken* and its related Narcissism are various types of self-adulation. The belief in the omnipotence of God is, according to Reik, an ejection of the belief in one's own omnipotence.<sup>199</sup> Another derivative of self-adulation is the doctrine of the election of Israel.<sup>200</sup> Further attributable to

<sup>194</sup> "Es ist als wollte die Materie ebenso wie der Organismus allen Inhalt behalten und setzte dem Teilungsstreben einen dumpfen Widerstand entgegen . . . Das Ewig-werdende ist ein Teil des Ewig-gleichen, das Vorwaertsdraengen eine retardierte Rueckkehr" (p. 243). Reik almost identifies the scission of self and not-self with the cellular fissions of Biology.

<sup>195</sup> *Ibid.*, pp. 238, 240, 249. For instance the fact that small differences occasion the greatest hostilities.

<sup>196</sup> "Wer sich an anderen vergreift, vergreift sich an sich selbst, denn der andere war urspruenglich ein Stueck Ich . . . Die gegen Angehoerige fremder Religionen geuebten Verfolgungen sind eigentlich unbewusste Selbstverfolgungen." To speak with perfect accuracy, some of these manifestations are not so much phases as correlates of narcissism. Equivalence, narcissism and *Allmacht der Gedanken* would all be survivals of the original unity. Until there is a not-self there can be for the libido none but a narcissistic direction.

<sup>197</sup> *Ibid.*, p. 173.

<sup>198</sup> *Ibid.*, p. 189.

<sup>199</sup> *Ibid.*, pp. 175, 181, 255.

<sup>200</sup> *Ibid.*, p. 71.

self-adulation is the propensity for stressing differences between religious groups,<sup>201</sup> overlooking or, in the manner of clinical *anagnorisis*, forgetting their original identities.<sup>202</sup> Hostility is felt toward gods that were at one time, as we have already seen (supra p. 611), the same as one's own. The Hebrew opposition to the stone and tree cults, the calf totem, Baal worship etc. are cited as examples. Narcissistic self-adulation is to be blamed for the unwillingness to admit the kinship of opposing cults.

Religious doubt also, according to Reik, "presupposes in the long run a Narcissistic overappraisal of one's own mental processes."<sup>203</sup>

Types of inverted or negative self adulation are the belief in the importance of humility and the belief in a devil. The might of God implies humility because it implies the feebleness of man;<sup>204</sup> while concomitant with the exaltation of self which precipitates a god there arises a disparagement of self of which the devil is the projection.<sup>205</sup>

The Jewish assumption that whoso suffers great distresses deserves great privileges and exemptions—an assumption strongly re-enforcing the Jewish doctrine of election<sup>206</sup>—also has a Narcissistic root.<sup>207</sup> Reik's idea is apparently that self-adulation demands compensation for the repressions and humiliations endured by the self.<sup>208</sup> This applies even to masochistically enjoyed sufferings and to self inflicted sufferings such as circumcision.<sup>209</sup>

If the Jew is at times beset with a sense of unworthiness and

<sup>201</sup> "Was sich als Differenz zwischen den einzelnen Menschengruppen bruestet, ist narzistischer Stolz, der die gemeinsamen Wurzeln ignorieren moechte, ist das Straeuben gegen die unbewusste Erinnerung an jene Zeit da alle eine homogene Masse waren" (p. 255).

<sup>202</sup> *Ibid.*, p. 180. The connection with religious persecution is obvious (p. 73).

<sup>203</sup> *Ibid.*, p. 172.

<sup>204</sup> *Ibid.*, p. 173 foot note.

<sup>205</sup> *Ibid.*, p. 255.

<sup>206</sup> *Ibid.*, pp. 69, 70.

<sup>207</sup> *Ibid.*, p. 207.

<sup>208</sup> *Ibid.*, pp. 72, 207. One is reminded of the Inferiority Complex enunciated by Alfred Adler.

<sup>209</sup> Reik, *op. cit.*, p. 208.

if circumcision is at times occasion not for elation but for embarrassment and apology, we have once again the Narcissistic trend functioning negatively or invertedly.<sup>210</sup>

Jacob Becker discerns Narcissism in R. Nachman of Bratislaw (1772–1811).<sup>211</sup> In line with Freudian theories, Becker adduces as evidence R. Nachman's extra-ordinary self-adulation. R. Nachman regards himself as "the glory, the beauty, the grace of the entire universe."<sup>212</sup> How, at one point, R. Nachman ranks himself higher even than the Deity is shown by a prayer which he composed for his followers.<sup>213</sup>

Becker also perceives in his subject signs of oral and anal erotism. Quoting Freud, he suspects oral erotism in R. Nachman's inordinate proclivity for eating at one period in his life and his abhorrence of food at a subsequent period.<sup>214</sup> Anal erotism appears in R. Nachman's likening the accumulation of money to wallowing in filth.<sup>215</sup> Becker cites here of course the Freudian notion of the unconscious copric significance of money. In R. Nachman's construction of the words in Isa. 48.19 "Ze'ez'e me'eka kema'otaw" to mean "Thine excrements are like someone's money," Freudian suppositions about "filthy lucre" receive amazing illustration.

Becker further applies to his subject some of the conceptions of Jung's "*Wandlungen und Symbole der Libido*." In the daring and luxuriant imagery of R. Nachman's "*Ma'asiyot*," he sees conclusive evidence of what Jung calls "introversion."<sup>216</sup> R. Nachman's metaphor of arrow shooting to denote ejaculation is of sexual import undisguised.<sup>217</sup>

<sup>210</sup> *Ibid.*, p. 206.

<sup>211</sup> ר' נחמן מברצלב מחקר פסיכואנליטי: מאת יעקב בקר הוצאת דעה ירושלים תרפ"ח.

<sup>212</sup> *Ibid.*, p. 17: ליקוטי הר"ן סימן צדיק הצדיק האמיתי הוא הפאר והיופי והחן של כל העולם כולו. והוא הבעל הבית של כל העולם והוא בבחינת הבעל הבית של בית המקדש כי הוא מאיר לבית המקדש ולכל העולם כולו.

<sup>213</sup> *Ibid.*, p. 18: יהי רצון מלפניך אדוני שכל הודוים והבקשות שהתודיתי ובקשתי מלפני הצדיק מלפניך יהיו רצויים ומקובלים לפניך כאלו התודיתי ובקשתי רחמנות מלפני הצדיק.

<sup>214</sup> *Ibid.*, pp. 13, 14.

<sup>215</sup> *Ibid.*, p. 16. It was not possible to locate this in Freud's *Ges. Schr.* V, p. 286, referred to by Becker.

<sup>216</sup> *Ibid.*, p. 26.

<sup>217</sup> *Ibid.*, pp. 29, 30.

## IV. INCEST

We now take up the vast subject of the Oedipus Complex. The theory is that the male infant, as a result of physical contact with its mother, acquires libidinous desires toward its mother and that those desires persist more or less covertly into later years. The literature of psychoanalysis deals with this condition extensively. Resolving the Oedipus Complex and its consequences into their leading components, we disengage from the data before us the following elements:

1. Incest wishes of the son toward the mother.
2. Hostility of the father toward the son.
3. Hostility of the son toward the father.
4. Conciliation of father and son involving:
  - a.) The father's friendliness toward the son.
  - b.) The son's friendliness toward the father.

Incest motives are discerned in the following features of Judaism:

- a.) The Sabbath.
- b.) The Fifth Commandment.
- c.) The Conception of a Promised Land.
- d.) The Wanderings of the Jews.
- e.) The Story of Cain.
- f.) The Story of Jacob.
- g.) Jewish Opposition to the Jesus and Mary cults.
- h.) Paradise, New Jerusalem, Ark of Covenant etc.
- i.) Sabbath Joy.
- j.) The Expectation of the Messiah.
- k.) Repentance.
- l.) The Quest of Elijah at Horeb.
- m.) Sheol.
- n.) *Halizah*.
- o.) *Sukkah*.
- p.) *Kiddush ha-Hodesh*.

It is pointed out by Ehrich Fromm that when work on the Sabbath is forbidden, the work referred to is primarily agriculture.<sup>218</sup> The verb is '*abad*' which means "to plow." We have

<sup>218</sup> "Der Sabbath," *Imago*, 1927, XIII, 223-234.

already encountered the theory that the plowing of the earth can be a symbol of sexual intercourse<sup>219</sup> (supra p. 619). "That which was primarily to be averted on the Sabbath" says Ehrich Fromm, "was the incestuous appropriation of Mother Earth."<sup>220</sup> "The Sabbath was originally a reminiscence of winning the mother."<sup>221</sup>

Also Reik has much to say about the incestuous implications of agriculture. He calls to mind the Semitic agricultural ceremonies described by W. Robertson Smith and the belief reported by Doughty that, at plowing, the *ginns* have to be propitiated by the sprinkling of blood.<sup>222</sup> "Plowing" says Reik, "was illicit and perilous because it amounted to a gratification of incest wishes."<sup>223</sup> "Mother Earth" represents a man's literal mother,<sup>224</sup> his first love object. Reik further links with this the supposed Jewish dislike for agriculture<sup>225</sup> and the rebuke in store for one who interrupts his studies to admire the beauties of nature.<sup>226</sup>

Similar incest implications by identification with earth (*adamah*) reside, according to S. Radó, in the Fifth Commandment.<sup>227</sup> Radó interprets: "Honor thy father (by avoiding intercourse with) thy mother in order that (*middah keneged middah*) thy days may be long on *adamah* (Mother Earth)."<sup>228</sup>

Reik holds that the Promised Land is, generally speaking, a "mother substitute."<sup>229</sup> Fulfilment of the promise depends on

<sup>219</sup> Neither Levy, Fromm, nor Reik appears to have noticed the expression for *coitus interruptus* in Yeb. 34b and Tos. Yeb. II, 6, "*dash mibifnim wezoreh mibbahuz*."

<sup>220</sup> Fromm, *op. cit.*, p. 226.

<sup>221</sup> *Ibid.*, p. 234.

<sup>222</sup> Reik, "Das Kainzeichen" *Imago*, V, 39. His reference is to W. Robertson Smith, *The Religion of the Semites*.

<sup>223</sup> Reik, *op. cit.*, p. 40, refers to a paper on "Plowing" by Hans Sachs before the 1913 Psychoanalytic Congress in Vienna.

<sup>224</sup> Reik refers to Dietrich "Mutter Erde" in *Archiv fuer Religionswissenschaft* VIII, 1 and to Storfer, *Marias Jungfraeuliche Mutterschaft*, p. 112.

<sup>225</sup> Long before Reik, Sombart alluded to this in *Die Juden und das Wirtschaftsleben*, p. 363.

<sup>226</sup> The author refers no doubt to Abot 3, 9.

<sup>227</sup> "Das Fuenfte Gebot," *Imago* 1923, IX, Heft 1.

<sup>228</sup> *Ibid.*, p. 129.

<sup>229</sup> "Ja'akobs Kampf," *Imago*, V, 334.



Israel's obedience, that is to say on the repression of incestuous longings for the mother that entail hostility toward God, the Father.

Also related to this, according to Reik, are the wanderings of the Jews in search of their original home.<sup>230</sup> "All wanderings of nations" he says, "are a search for an original home just as all sex desire in the individual is a search for the mother, the never abandoned object of one's first love."<sup>231</sup>

Cain's connection with *adamah*, the soil suggests that incest was also his dereliction.<sup>232</sup> This comports with a tradition about the rivalry of Cain and Abel for an older sister. In psychoanalysis it is a commonplace that a sister can figure as a mother substitute and a brother as a father substitute.<sup>233</sup> Reik accordingly regards the story as "eine Doublette der Suendenfallerzaehlung." Modern poetry likewise ascribes libidinous desires to Cain.<sup>234</sup> Psychoanalysis finds moreover that a city can be the unconscious equivalent of the female body; and Cain was the first city builder.<sup>235</sup>

The Jacob story is likewise held to reflect incest motifs.<sup>236</sup> Reik notices Rebecca's fondness for Jacob with the intimation of a reciprocally incestuous attitude on Jacob's part. There is also the partial merging of Rebecca, the mother, and Rachel, the bride. Rachel is the niece of Rebecca and niece like daughter can be a mother substitute. Again Rachel like Rebecca makes her first appearance at a well. The seven years of waiting for Rachel as well as the sterility which Jacob blames on Rachel are, according to Reik, hints of something illicit. Reik regards the incest committed by Reuben, the son of Jacob, with Bilhah, concubine of Jacob as but a variant of the same theme.

<sup>230</sup> *Der Eigene und der Fremde Gott*, p. 60.

<sup>231</sup> *Ibid.*, p. 54.

<sup>232</sup> "Das Kainzeichen," *Imago*, V, 39. Referring to Gunkel's remark (*Genesis*, p. 5) about the play on the word "*adamah*," Reik observes "dass dergleichen Hauefung von Ausdruecken einzutreten pfllegt wenn affektive Vorgaenge wirksam sind."

<sup>233</sup> Charles Baudouin, *Psychanalyse de l'Art*, (Paris 1929), pp. 60, 61.

<sup>234</sup> Reik, "Das Kainzeichen," *Imago*, V, 41.

<sup>235</sup> Reik refers to Storfer, *Marias Jungfraeuliche Mutterschaft*, p. 119 and to Rank, *Der Mythos von der Geburt des Helden*.

<sup>236</sup> "Ja'akobs Kampf," *Imago*, V, 339.

Reik also detects a struggle with incest longings in the Rabbinic antipathy to the Jesus and Mary cults. He asserts that the anointing of Jesus by a Mary represents a sexual union of the god with his mother.<sup>237</sup> He contends that Mary is "a younger sister of the great love goddess."<sup>238</sup> "Her relations with Jesus have their prototype in the relations of West Asiatic mother goddesses and their son-consorts, such as that of Ishtar and Tammuz, of Astarte and Adonis, of Isis and Osiris etc." The bride of Christ in Rev. 21.9 appears to Reik to be the same personage as his mother in 12.5.

Reik thinks that the contempt of the Rabbis for Jesus and Mary is explicable only as a reaction against incest wishes of their own. "Unconsciously the Rabbis identify themselves with the revolutionary son-god and lover of the mother goddess."<sup>239</sup>

In the opposition to Jesus and Mary, earlier Hebrew history was in a sense repeating itself. Reik argues that an Israelitish mother goddess was worshiped in early times. He cites the adoration of the Queen of Heaven against which Jeremiah inveighs.<sup>240</sup> He instances the Hebrew predilection for Ishtar, Astarte etc.<sup>241</sup> and observes that a sexual longing for a mother goddess finds in Hosea, Jeremiah etc. recurrent censure.<sup>242</sup> He even surmises a connection of Miriam of Exodus with Mary Magdalene and Mary, mother of Jesus.<sup>243</sup> The *argumentum e silentio*, he holds, loses force in view of the familiar psychoanalytic mechanisms of repression and displacement.<sup>244</sup> The abandonment of the mother goddess Reik attributes to the hardships of the arid country and to the oppressions of stronger peoples.<sup>245</sup>

<sup>237</sup> *Der Eigene und der Fremde Gott*, p. 129. Reik refers to John 11.2; 12.3; Mark 14.3.

<sup>238</sup> Reik, *op. cit.*, p. 17.

<sup>239</sup> *Ibid.*, p. 29. Regarding the sexual though not specifically incestuous import of the Rabbinic attitude toward Jesus, something has already been said supra p. 627.

<sup>240</sup> Reik, *op. cit.*, p. 54. The references to Jeremiah are 7.17, 18; 44.9, 15.

<sup>241</sup> Reik, *op. cit.*, p. 58.

<sup>242</sup> *Ibid.*, p. 63 foot note.

<sup>243</sup> *Ibid.*, p. 57.

<sup>244</sup> *Ibid.*, p. 34.

<sup>245</sup> *Ibid.*, p. 58. Reik does not mention the feminine implication of *wat-hollet* in Ps. 90.2 or of *yeliditika* in Ps. 2.7 or of *ruah elohim merahefet* in Gen. 1.2. Reik claims that Luther repeated the suppression of Mary. She was repressed

In connection with incest longings, the psychoanalytic writers have much to say about the unconscious desire for a return to the womb. Projections of that desire have been found in various religious fancies such as the New Jerusalem, Paradise, the ark of the covenant, the grave of Christ etc.<sup>246</sup> Ehrich Fromm in his psychoanalytic study of the Sabbath traces the desire for the intra-uterine state in at least three Jewish concepts.

One is that of Sabbath joy. This he calls "die Wiederherstellung der Harmonie der Mutterleibsituation."<sup>247</sup> Sabbath joy, implying a regression to the intra-uterine state of perfect rest, becomes a glad substitute for the Oedipus gratification which has been renounced.<sup>248</sup> "Verzichtscharakter" becomes "Erfuellungscharakter."

Another projection of the wish for intra-uterine security is the Messianic Age. The Messianic Age means Paradise regained when, as in the mother's womb, the bitter need for work will no longer exist.<sup>249</sup> In the Talmud, Fromm finds a synthesis of the first and the second of these projections. He refers to a Talmudic assertion that the Messiah will come when Israel keeps the Sabbath perfectly.<sup>250</sup>

In the Jewish idea of Repentance, i.e. of *Teshubah*, a returning, Fromm discerns a cognate import. Analytically speaking, chastise-

as "Abgoettin und mit ihr der Bilderdienst, der Mythos und die Sinnenfreudigkeit die zugleich mit ihr immer wieder ihren triumphierenden Einzug in die Religion hatten" (p. 67). This reminds us of Allwohn's comments on the joyousness of the Baal cult which Hosea resisted but by which he was nevertheless influenced (supra pp. 624, 626).

<sup>246</sup> Berguer, G., *Some Aspects of the Life of Jesus* (New York, 1923), p. 118. Jung, C. G., *The Psychology of the Unconscious* (translated by Beatrice M. Hinkle, New York, 1916), p. 380. Martin, E. D., *The Mystery of Religion* (New York and London, 1924), pp. 97, 237.

<sup>247</sup> "Der Sabbath" *Imago* 1927, XIII, 228.

<sup>248</sup> *Ibid.*, p. 229.

<sup>249</sup> *Ibid.*, p. 233. He refers to Isa. 11.6; 30.26.

<sup>250</sup> *Ibid.*, p. 233. The author is probably thinking of Sab. 118b. The reference to the Messiah is somewhat inaccurate both here and in the Jewish Encyclopedia article "Sabbath" referring also to Sab. 118b. The text says that were Israel to keep perfectly two Sabbaths in succession they would be immediately redeemed ("*miyyad nigalin*"). The author might also have mentioned Ber. 66b that the Sabbath is one sixtieth of the world to come.

ment for the primordial incest is supplanted by a return to the womb. "An illicit and punishable satisfaction thus gives way psychically to the lawful satisfaction of being unborn."<sup>251</sup>

Major Povah thinks that in the story of Elijah at Horeb the cave is the womb and that Elijah's entrance and emergence are a symbol of rebirth.<sup>252</sup> He also regards as related to the wish for intra-uterine Nirvana, the idea of She'ol. In this connection he quotes Job 1.21; 3.10-26 and Jer. 20.14-18.<sup>253</sup>

Among the many ways in which, according to Jacob Becker, R. Nachman of Bratislaw betrays his Oedipus Complex is his interpretation of the *Halizah* shoe as a symbol of woman and of the *Sukkah* as a mother symbol in truly Freudian style.<sup>254</sup> While Gezá Roheim, the Freudian, divines mother longings in moon myths and rituals, R. Nachman connects *kiddush ha-hodesh* with *kiddushin* in the sense of marriage.<sup>255</sup> R. Nachman regards the moon as undergoing a consecration like that of a bride to her husband. Jacob Becker suspects the Oedipus Complex in all of this.<sup>256</sup>

## V. HOSTILITY BETWEEN FATHER AND SON

### A. HOSTILITY OF THE FATHER TOWARD THE SON

The son's approaches to the mother provoke the rivalry and hostility of the father.

The impress of this hostility is alleged to persist in various

<sup>251</sup> *Op. cit.*, p. 232.

<sup>252</sup> *The New Psychology and the Hebrew Prophets* by Major J. W. Povah B. D. (London, 1925), p. 131.

<sup>253</sup> *Ibid.*, p. 89. Reik (*Der Eigene und der Fremde Gott*, p. 152) makes a similar point of the story that Orpheus got his beloved from the underworld. Underworld is the womb of Mother Earth. Descent into Hell means incestuous union with the mother. Reik recalls that "Hell" comes from "Hela," the name of a goddess. He quotes Grimm (*Deutsches Woerterbuch*, S. 1747ff.) as suggesting that, like the womb where the embryo resides, Hell is a narrow and hot place. He recalls that Boccaccio makes the vagina mean hell and the penis the devil.

<sup>254</sup> Not unlike the modern views of Ludwig Levy, *supra* p. 626.

<sup>255</sup> "Mondmythologie und Mondreligion," *Imago*, 1927, XIII, 530.

<sup>256</sup> R. *Nahman mi-Brazlaw*, p. 29. It was not possible to locate this in Freud's, *Ges. Schr.* X, p. 210 referred to by Becker.

religious fears. One of these is the fear of demons.<sup>257</sup> Another is the fear already noticed as connected with plowing when "sexual" advances are made to "mother" earth.<sup>258</sup> Reik traces the same apprehension in various fears associated with the *Kol Nidre*. The phrase *ha-ba 'alenu lefobah* in the *Kol Nidre* displays according to Reik the apprehension that good may *not* attend the coming year.<sup>259</sup> A similar uneasiness is seen by him in the *shehe-heyanu* formula shortly following the *Kol Nidre*. A vestige of an "Unheilserwartung" he calls this. Such "Unheilserwartung" Reik finds pervading the entire Amoraic epoch of Jewish history during which, he supposes, the *Kol Nidre* to have originated.<sup>260</sup>

Just as the insurgent sons would, if they could, devour the obstructive father, the resentful father—again *middah keneged middah*—would like Chronos in Greek mythology devour his aggressive offspring. Reik mentions in this connection children's fears of being eaten by giants or ogres.<sup>261</sup> The charge that the Jews eat *mazzot* containing Christian blood is asserted to belong to this same complex.<sup>262</sup>

The God that keeps Moses out of the Promised Land is also a punitive father. The Promised Land, as we have seen, represents the mother. Something in the relation of Moses to his mother is thus the occasion of God's killing him.<sup>263</sup>

Various initiation rituals carry the same import. The manhandling of the candidate goes back to the rude treatment which the irate father would visit upon his youthful rivals. Reik discusses in detail the initiation rites of the Australian Negroes in which the Balum monster terrifies and pretends to destroy the young initiates.<sup>264</sup> Among some primitives, the candidates are beset by the ancestral ghosts by whom they are intimidated,

<sup>257</sup> *Der Eigene und der Fremde Gott*, p. 161.

<sup>258</sup> "Das Kainzeichen," *Imago*, V, 40.

<sup>259</sup> *Probleme der Religionspsychologie*, (Leipzig und Wien), 1919, p. 168.

<sup>260</sup> *Ibid.*, p. 174.

<sup>261</sup> *Der Eigene und der Fremde Gott*, p. 199.

<sup>262</sup> *Ibid.*, p. 215.

<sup>263</sup> Reik, "Der Moses des Michaelangelo und die Sinaivorgaenge," in *Probleme der Religionspsychologie*, p. 287.

<sup>264</sup> Reik, "Die Pubertaetsriten der Wilden," Chap. III in *Probleme der Religionspsychologie*.



alarmed, bitten and supposedly killed.<sup>265</sup> Reik construes these rituals as variants of one central theme—the killing of the sons by the father upon whose sexual prerogatives with the mother the sons would trespass.

Reik does not cite the modern Boy Scout ritual in which a personage somewhat resembling the Balum monster accosts and confuses the young initiate who is, for that purpose, required to remain alone in a forest. The elements of cruelty often undisguised in various lodge initiations and student hazings are familiar. Our own Confirmation service exacts of the children not a little arduous study, burdensome discipline and embarrassing public appearance. Over every initiation apparently the shadow of paternal vindictiveness rests.

Also in the projected sacrifice of Isaac, Reik sees a resemblance to the simulated sacrifice of youth demanded by the Balum monster. The god commands what unconscious paternal hostility desires.<sup>266</sup>

When we considered Langer's discussion of the Mezuzah we noted his surmise that in its menacing character as a suggestion of paternal sex prerogatives lay its apotropaic power.

The rite of circumcision is, according to Reik, of identical import. Originally the father would slay the son.<sup>267</sup> Later, castration—very logically the maiming of the offensive function—would be substituted<sup>268</sup> and still later circumcision, an attenuated form of castration.<sup>269</sup> Among some primitives the substitute is

<sup>265</sup> Reik, "Ja'akobs Kampf," *Imago*, V, 333.

<sup>266</sup> Reik, *Probleme der Religionspsychologie*, p. 236.

<sup>267</sup> "Es ist wahrscheinlich, dass urspruenglich die wirkliche Toetung des Erstgeborenen wie sie manche primitive Voelker noch jetzt ausueben durchgefuehrt und erst spaeter durch die Kastration ersetzt wurde. Die Kastration (Beschneidung) ist bereits die mildere Taktik welche allerdings die sexuelle Motive der Rivalitaet zwischen Vaetern und Soehnen klar erkennen laesst" (*Der Eigene und der Fremde Gott*, p. 214). "Eine zewite spaetere Sage hielt die Erinnerung daran fest dass einmal Vaeter aus Motiven der Vergeltungsfurcht die Soehne kaetrierten oder noch spaeter am Penis verstuemmelten" ("Ja'akobs Kampf" *Imago* V, 331).

<sup>268</sup> Reik, "Ja'akobs Kampf," *Imago* V, 334.

<sup>269</sup> The author cites Freud "Analyse der Phobie eines fuenfjaehringen Knaben" in *Sammlung Kleiner Schriften zur Neurosenlehre* III, p. 26; also *Totem und Tabu*, p. 141 footnote. Reik tells us that among the Arundas the



not circumcision but the pulling out of the hair, knocking out of teeth and the like.<sup>270</sup>

Lorenz takes the confusion of tongues at the Tower of Babel to mean castration just as the building of the tower is to him the anti-paternal aggression of the son (infra p. 648). Again, coupling with the interruption in Gen. 35.21 the words of Gen. 49.4b Dr. Ludwig Levy reads not *hillalta* (second person *pi'el*) but *halalti* (first person *kal*) and renders "I have bored through" i.e. "I have castrated." Recalling how Oedipus lost his eyes and how in the Indra myth the curse that Indra's body become covered with sex organs is changed to the curse that eyes cover his body, Ludwig Levy sees castration in the blinding of Samson and in the blinding of the Sodomites.<sup>271</sup>

Reik holds that in some of its aspects anti-Semitism is connected with castration-circumcision.<sup>272</sup> "The contempt for the castrated i.e. the circumcised" he says, "is bound up with the dark fear of undergoing a similar fate." The Christian, in other words, is haunted unconsciously by the dread of castration at the hands of a jealous father.<sup>273</sup> This fear becomes transformed into detestation of the circumcised (i.e. the castrated) Jew. Sometimes the Jew is abhorred as an inflicter of castration.<sup>274</sup> Reik makes out that the figure of Shylock is a disguise for that of a castrator.<sup>275</sup>

As an account of such a paternal castration or initiation, prolonged seclusion of the youth while recovering from the circumcision wounds is allowed to foster the supposition that the monster Twanyirika has abducted them.

<sup>270</sup> Sigmund Freud, *Totem und Tabu*, (Leipzig und Wien), 1913, p. 141.

<sup>271</sup> Ludwig Levy "Die Kastration in der Bibel," *Imago*, VI, 394.

<sup>272</sup> Reik, *Der Eigene und der Fremde Gott*, p. 214.

<sup>273</sup> "Der Kastrationskomplex ist die tiefste Ursache des Antisemitismus aber auch der Unheimlichkeit welche die Juden fuer eine lange Zeit des Mittelalters und fuer viele Leute noch unserer Zeit umgibt" (*ibid.*, p. 209).

<sup>274</sup> *Ibid.*, pp. 210, 211.

<sup>275</sup> There is a *Verschiebung nach oben* in the demand for the pound of flesh. The play does not at first specify the part of the body from which the flesh is to be taken (*ibid.*, p. 211). Antonio is, according to Reik, a "son figure" also an *Abspaltung* from Shylock (p. 212). Isador H. Coriat in *Internat. Journal of Psychoanalysis* 1921, pp. 354-360, has an article on anal-erotic character traits in Shylock.

Reik treats the story of Jacob. If beneath numerous alterations and disguises that purport is unrecognizable we have, thinks Reik, only another instance of the displacements and distortions familiar in neuro-pathology.<sup>276</sup>

On page 638 we noticed the evidences of incest or incest longings in the life of Jacob. With these Reik connects the following indications of a punitive castration:

1. The Peniel incident, he claims, belongs not to the manhood of Jacob but to his youth.<sup>277</sup> It belongs, in fact, to the time and place of the Beth-El incidents of Chapter 28.<sup>278</sup> The awfulness of the place in Gen. 28.17 comports not with a fair promise but with a dark conflict.<sup>279</sup> The Jacob who conquers God is hardly the same as the Jacob who dreads Esau. Reik also accords weight to the apparent discrepancy that puts Jacob South of the Jabbok in Gen. 32.23, 24 and North of the Jabbok in v. 25.<sup>280</sup> He further cites Gunkel's contention that the Peniel story is alien to its present context.<sup>281</sup> He seems however to overlook the confirmation that his theory might receive from Hos. 12.4b, 5b<sup>282</sup> and from the poetic intuitions of Beer-Hofman who fuses the Peniel and the Beth-El incidents into one.<sup>283</sup>

2. That Jacob has been in conflict with his father, Reik finds implied in Gen. 32.29, "Thou hast striven . . . with men and hast prevailed."<sup>284</sup> In the deceiving of Isaac he also sees a struggle between father and son, especially since "What is thy name?" of Gen. 32.28 sounds so much like, "Who art thou, my son?" of Gen. 27.18.<sup>285</sup> Esau, angry at Jacob<sup>286</sup> and dreaded by Jacob, also Laban, cheating<sup>287</sup> and afterward pursuing Jacob,

<sup>276</sup> Reik, "Ja'akobs Kampf," *Imago*, V, 337.

<sup>277</sup> *Ibid.*, p. 336.

<sup>278</sup> *Ibid.*, p. 337.

<sup>279</sup> *Ibid.*, p. 338.

<sup>280</sup> Reik does not mention the conflict between Gen. 32.23, 24 in which Jacob's retinue is on one side of the Jabbok with vv. 8, 11 which puts them on both sides.

<sup>281</sup> Gunkel "Genesis" Goettingen 1902, p. 323 (not p. 365 as Reik gives it, *op. cit.*, p. 336).

<sup>282</sup> "By his strength he strove with God . . . at Beth-El he found him."

<sup>283</sup> Richard Beer-Hofmann, *Jaakobs Traum*.

<sup>284</sup> Reik, "Ja'akobs Kampf," *Imago*, V, 338.

<sup>285</sup> *Ibid.*, p. 340.

<sup>286</sup> *Ibid.*, p. 339.

<sup>287</sup> *Ibid.*, p. 340.

look to Reik like "father substitutes." They embody the father hostility.<sup>288</sup> The assailant deity of Gen. 32 is obviously hostile.

3. The solitariness of Jacob at Beth-El and at Peniel suggests the seclusion to which, in various primitive rites, the young initiates are subject.<sup>289</sup>

4. In view of the connection between limping and castration among various peoples, Reik takes the limping of Jacob to mean castration.<sup>290</sup>

a.) The sudden vanishing of the deity at day-break suggests a dream. Reik is not reminded of the Beth-El dream but he does cite the clinical observation that in nightmares in which the dreamer is beset by some unknown being, fears of castration because of illicit sexual acts or fancies attain expression.<sup>291</sup>

b.) Reik further recalls that the Rabbis and the Zohar identify the *gid ha-nasheh* with the sex organ.<sup>292</sup>

c.) The fact that in the subsequent biography of Jacob there is no further reference to the maiming shows, according to Reik, that the maiming was circumcision; circumcision, a common practice taken as matter of course, necessitating no further mention.<sup>293</sup>

Reik defends this bizarre recasting of the story by calling

<sup>288</sup> *Ibid.*, p. 339.

<sup>289</sup> *Ibid.*, p. 337.

<sup>290</sup> *Ibid.*, pp. 332, 333. Reik recalls how Hercules sustains a hip injury in one of his wrestlings. Reik probably did not know the Indian tale of Hiawatha's wrestling with Mondamin (Longfellow, *Song of Hiawatha*). On the identification of limping with castration Reik refers to his "Pubertaetsriten der Wilden" which is chap. II in his *Probleme der Religionspsychologie*.

<sup>291</sup> Reik, "Jaa'kobs Kampf," *Imago*, V, 332. Reik thinks in this connection of the ghost in Hamlet which vanishes at daybreak. In a letter dated Berlin Jan. 13, 1931, Reik writes: "The ladder is a symbol of sex-intercourse and as such used in many dreams. That means that the climbing up a ladder is unconsciously compared with the rythm of the act."

<sup>292</sup> Does he simply mean that in Rabbinic Hebrew *gid* also means sex organ as in San. 68b and Kid. 25a? Reik's Zohar reference is *Parashah Way-ishlah* 170, where it says *חטן הוא יצר הרע רביע*.

<sup>293</sup> Reik *op. cit.*, p. 334 refers to Stade on *Gib'at Arelim* Z.A.W. VI, p. 132. It is surprising that Reik does not find castration symbolized, by several displacements, in the blindness of Isaac. On the connection between blindness and castration, *supra* p. 644, *infra* 688. On the connection between circumcision and castration, *supra* p. 643.

attention to identical dislocations in the mental occurrences treated by the psychiatrist.<sup>294</sup>

Covering his assertions by references to Chadwick's "*Die Gott-Phantasie bei Kindern*"<sup>295</sup> and to Freud's "*Totem und Tabu*," Becker instances the early *timor mortis* of R. Nachman of Bratislaw as one of many evidences of the Oedipus Complex in that noted mystic; similarly his early sense of fear of the Deity. Displacements for terrors inspired by the offended father are what these are taken to be psychoanalytically.<sup>296</sup>

## B. THE HOSTILITY OF THE SON TOWARD THE FATHER

Concurrent with the father's opposition to the son because of rivalry for the mother is that reciprocal phase of the Oedipus complication, the hatred of the son for the father. Psychoanalysts claim to have encountered in their psychiatric practice copious evidence of this hostility. Patricidal impulses with incestuous correlates are said to be clinical commonplaces. There have been children who have fancied themselves in the act of sexually mutilating their father;<sup>297</sup> while, as we have already noted

<sup>294</sup> "Wie ist diese unorganische Verbindung zu erklæren? Keinesfalls dann, wenn wir die Erzæhlungen nebeneinander laufen lassen, sie flechtenhaft auffassen. Aber sie liegen auf verschiedene Ebenen, nur eine historische und genetische Betrachtung kann sie aus ihrem jetzigen Ineinander sondern" (p. 340). "Betrachten wir, wie sehr die Bearbeitung der Sagengeschichten der seelischen Arbeit der Zwangsneurotiker gleicht, wie sie in einem Symptom alles laengst Entschwundene und Neues zusammenschweisst, neue wahrhafte Motivierungen und Rationalisierungen schafft, Auslassungen, Ellipsen und falsche Verbindungsglieder herstellt, um den urspruenglichen unbewusst gewordenen Sinn ihrer Zwangsgedanken zu verwischen" (p. 343). Speaking of the taboo of the thigh sinew, "Wir werden gewiss die falsche Motivierung des Verbotes der wahrhaften Umdeutung der Neurotiker vergleichen, die Unwahrscheinlichkeit, ja Unsinnigkeit der Motivierung hat uns ja den Weg zum Verstaendniss der wahren unbewussten Gruende des Verbotes gefuehrt" (p. 341).

<sup>295</sup> *Imago*, 1927, p. 383. However there happens to be nothing in this reference to substantiate Becker's assertion.

<sup>296</sup> Becker "*R. Nahman mi-Brazlaw*," p. 9.

<sup>297</sup> Reik ("*Jaa'kobs Kampf*") *Imago*, V, 342) gives two illustrations from clinical experience. Ludwig Levy ("*Die Kastration in der Bibel*") *Imago*, VI, 393) calls attention to the Talmudic belief, San. 70a, that Ham castrated his father Noah.

(supra p. 00), the juvenile fear of being eaten by a beast or an ogre has been traced psychoanalytically to the dread of being deservedly penalized for a murdering and devouring of the male parent at least in phantasy.<sup>298</sup>

Basing himself not only on clinical data but also on reports of Darwin and of Atkinson that in the combat for the females wild horses have been known to kill their sires, Freud posits an *Urmord*, a slaying of some primitive father or fathers by the sexually assertive sons.<sup>299</sup> That certain sacrificial rites are a "commemoration of a mythical tragedy" is an opinion in which Freud eagerly concurs with W. Robertson Smith.<sup>300</sup>

In all events writers treating the psychoanalytic roots of Jewish belief, observance and vicissitude find the patricide hypothesis extensively serviceable.<sup>301</sup>

Ehrich Fromm thinks that just as in the dreams of children, sleeping represents death, the story of God's resting on the Sabbath exposes a wish for the father's death.<sup>302</sup> This is further borne out by the connection of the Sabbath with the phases of the moon, in which the waning moon signifies the dying of the moon or the moon god.<sup>303</sup>

An uprising against the father has also been descried by Lorenz in the Tower of Babel story.<sup>304</sup>

<sup>298</sup> Reik, *Der Eigene und der Fremde Gott*, p. 199.

<sup>299</sup> Freud, *Totem und Tabu*, p. 131.

<sup>300</sup> *Ibid.*, p. 140. The reference to W. Robertson Smith is "*The Religion of the Semites*," p. 412, 413. Highly interesting are the accounts ("*Totem und Tabu*," p. 139) which Freud quotes from Frazer, *Golden Bough* regarding the annual slaughter of Latin kings. These kings were, according to Freud, father representatives.

<sup>301</sup> Reik holds that the aboriginal patricide became a model on which many a subsequent phantasy was constructed. "*Die Ueberwältigung des Vaters der Urhorde war das Vorbild aller späteren Sohnesrevolutionen*" (*Probleme der Religionspsychologie*, p. 269).

<sup>302</sup> Fromm, "*Der Sabbath*," *Imago*, XIII, 226.

<sup>303</sup> *Ibid.*, p. 227. He refers to Nielsen, *Die altarabische Mondreligion und die mosaäische Ueberlieferung*, (1904), p. 10. He mentions (p. 226) a Babylonian myth of Berosus in which Bel commanded a god to decapitate him and to make men and beasts of the blood mixed with earth. The reference is Schrader, *Keilinschriften*, p. 489. We dwell upon the sex and the incest implications of the Sabbath supra, pp. 636, 637, 640.

<sup>304</sup> *Imago*, XIII, 139, in review of an article by Fluegel.



Boudouin in his "*Psychanalyse de l'Art*" classes the Cain and Abel story with an entire group of myths in which a brother is, psychoanalytically speaking, a father substitute and a fratricide a disguised patricide.<sup>305</sup> We have already noticed (supra p. 638) how Reik calls this story "eine Doublette der Suendenfall-erzaehlung."<sup>306</sup>

Abraham's intention to sacrifice Isaac has also been construed as an intimation of an anti-paternal uprising.<sup>307</sup> Reik claims that the son may be the "revenant" of his own grandfather. Abraham would thus not be a father sacrificing a son but a son sacrificing a father. Similarly Reik thinks that the ambiguity of the Hebrew antecedent in Gen. 32.26 can admit the meaning that Jacob wounded the deity i.e. that a son castrated his father. Basing himself on Sanhedrin 70a, "*Had amar sirreso*" Ludwig Levy makes out likewise that Ham castrated his father.

Jacob's deception of Isaac as well as his collisions with Laban, his father substitute, are deemed by Reik further glimpses of a son's insurrection.<sup>308</sup> The taboo of the thigh vein, Reik thinks, goes back to an occasion on which a son for sexual reasons killed and devoured his parent with the result that such killing and devouring was afterward expressly prohibited.<sup>309</sup>

Reik hears further echoes of the son's insubordination in the repeated characterizations of the Israelites as a "stiff-necked people";<sup>310</sup> while Korah<sup>311</sup> and the builders of the Tower of Babel<sup>312</sup> are only types of the Hebrew rebel against the father, Yahweh.

In another passage, Reik suggests that circumcision can signify a punishing of the father by means of self punishment.<sup>313</sup>

<sup>305</sup> Paris 1929, pp. 60, 61.

<sup>306</sup> Reik, "Das Kainzeichen," *Imago*, V, 40.

<sup>307</sup> Reik, *Probleme der Religionspsychologie*, p. 237.

<sup>308</sup> Reik, "Ja'akobs Kampf," *Imago*, V, 340.

<sup>309</sup> *Ibid.*, p. 341. Other features of the Jacob story are considered supra pp. 638, 645 and infra p. 658.

<sup>310</sup> Reik, *Der Eigene und der Fremde Gott*, p. 68.

<sup>311</sup> *Loc. cit.*

<sup>312</sup> Reik, *Probleme der Religionspsychologie*, p. 303. Absalom's insurrection against David (II Sam. 15-19) and the attendant access to David's concubines (II Sam. 16.22) probably await treatment from this standpoint.

<sup>313</sup> Reik, *Der Eigene und der Fremde Gott*, p. 208.



Various writers have seen opposition to the father in the resistance of children to religious instruction<sup>314</sup> as well as in Atheism<sup>315</sup> and other types of religious dissent.

Blasphemy and kindred phenomena have likewise been attributed to anti-paternal tendencies.<sup>316</sup> Ehrich Fromm suspects a touch of blasphemy in the idea in Gen. 1 and Exod. 20 that God so much as needs a rest.<sup>317</sup> That deeply conscientious persons are particularly subject to outbursts of rebelliousness has been noticed repeatedly.<sup>318</sup> Monks have confessed themselves as disposed to blaspheme during prayer.<sup>319</sup> Freud reports an analogous tendency in one of his patients.<sup>320</sup> With this, Reik connects the jest about the two Jews whose hostility toward one another comically reasserts itself in the very act of becoming reconciled.<sup>321</sup> Reik further alludes to the child who said, "I want

<sup>314</sup> *Ibid.*, p. 221. The author refers to Freud's "Aus der Geschichte einer Infantilen Neurose" in *Sammlung Kleiner Schriften zur Neurosenlehre*, II. Folge, S. 650f. An attempt to find the article at the place mentioned was not successful.

<sup>315</sup> Oscar Pfister, *The Psychoanalytic Method*, translated by C. R. Payne, New York, 1917), p. 411; also "Anwendung der Psychoanalyse in der Paedagogik und Seelsorge," *Imago*, 1912, p. 76.

<sup>316</sup> Reik, *Der Eigene und der Fremde Gott*, p. 52. Reik says that blasphemy is one of the esteemed purposes of religion. "Es kann schwer geleugnet werden, dass die Religion eine soziale Institution ist, zu deren vornehmsten Zielen auch die Sanktionierung von Gotteslaesterungen gehoert." He instances the recurrence of the Jewish Pantheros in the guise of a Panther and a Barpanther in an accepted genealogy of the Virgin Mary; also the juxtaposition of the Virgin and a thief in the *Dies Irae*:

"Qui latronem exaudisti  
Et Mariam absolvisti."

He refers for further elucidation to Freud's *Zwangshandlungen und Religionsuebungen* and *Totem und Tabu*. "Ohne Gotteslaesterung wuerde es kein Gottesdienst geben" (Reik *op. cit.*, p. 224).

<sup>317</sup> Ehrich Fromm, "Der Sabbath," *Imago*, XIII, 225. The reader thinks by contrast of Isa. 40.28, "The creator of the ends of the earth is not weary."

<sup>318</sup> Reik, *Probleme der Religionspsychologie*, p. 157. A pertinent example not mentioned by Reik is the mind wandering of the praying saint cited by James Harvey Robinson, *The Mind in the Making* (New York, 1921), p. 39, foot note.

<sup>319</sup> Reik, *op. cit.*, p. 166.

<sup>320</sup> The case is said to be described in Freud's *Bemerkungen ueber einen Fall von Zwangneurosen*.

<sup>321</sup> Reik, *op. cit.*, p. 158.

to be good but can not." He might also have quoted Rom. 7.15 "Not what I would, that do I practice; but what I hate, that I do"; or Horace:

"Meliora video proboque  
Deteriora sequor."

Whether or not Oedipus trends will, as Reik assumes, account for the discrepancy between ideals and practice, the problem so far as religion is concerned is one of paramount importance.

A most amazing application of the Oedipus idea occurs in Reik's treatment of the *Kol Nidre*, a topic to which he devotes forty-five pages.<sup>322</sup> Apparently as much at home in the *Wissenschaft des Judenthums* as in psychoanalysis, Reik appears fully conversant with the literature and all of the theories regarding the *Kol Nidre*, its history and its import. His views are not those of a tyro astounding though they may be.<sup>323</sup> The conclusion he reaches is that the *Kol Nidre* is symbolically an act of sexually motivated patricide.

Underlying this staggering hypothesis is a unique theory with reference to vows. Reik contends that all vows are but derivatives of a certain original primordial vow which related to one thing only and that was the *Urmord*. The sons in the *Urhorde* having slain the father and having subsequently been stricken with remorse resolved never to repeat the deed;<sup>324</sup> at least a mental repetition was always possible. Vestiges of patricide lurk, according to Reik, in the phrases "as God liveth," "by the life of the god," etc. commonly attached to vows.<sup>325</sup> The use of empty skins, the proximity of the dead, etc. when taking oaths also betray, he thinks, a homicidal origin of vows, oaths being but vows to tell the truth.<sup>326</sup>

If vows signify in last analysis respect for the life of the father or of the deity (who is but an apotheosized father), the breaking of vows means a disrespect for that life which, by the

<sup>322</sup> *Probleme der Religionspsychologie*, pp. 432-477.

<sup>323</sup> Greatly to be regretted is the mistranslation *Stimme des Geluebdes* standing parenthetically under the title, *Kol Nidre*. Fortunately the blunder does not recur anywhere in the discussion itself.

<sup>324</sup> *Op. cit.*, p. 155, p. 163.

<sup>325</sup> *Ibid.*, pp. 163, 164.

<sup>326</sup> Reik's word *Eid* applies both to oaths and to vows.

*Allmacht der Gedanken*, is the patricide or deicide over again. Reik argues that the innumerable prescriptions in Judaism touching the matter of vows indicate a powerful inner tendency to violate vows, with all that such violation implies.<sup>327</sup>

*Kol Nidre* declaring the abrogation of vows is therefore a reassertion of the patricidal tendency.<sup>328</sup> With this view, according to Reik, the fact comports that the elders of the congregation must formally confer upon the precentor the authority to chant the *Kol Nidre* and that the precentor does not in this as in other instances begin with the invoking of Divine aid. Curiously Reik fails to mention the introductory reference to the *abaryanim*.

There are several reasons why the Atonement service is prefaced by a resurgence of the patricidal urge.

One is the advantage of displaying concretely the sinfulness that requires atonement. God is called upon to notice how desperately forgiveness is needed. "Die Unmoeglichkeit voellig auf Triebbefriedigung zu verzichten wird ihm *ad oculos* demonstriert."<sup>329</sup>

Then there is the necessity of providing an outlet for vicious tendencies before the service begins, that there be no sinister eruption of those tendencies during the service itself.<sup>330</sup> The carnival preceding Lent is a parallel.

Beneath it all Reik sees the familiar patterns of neurosis mechanisms<sup>331</sup> in which repressed inclinations break out, are with much remorse and many a fresh resolve "to lead a better life" again repressed, only to break out later and thus in a continuous cycle.<sup>332</sup> Reik is reminded of a neurotic woman who would assiduously clean out a drawer and then dump the dirt back again; "the suppression of the opposing tendency was insufferable."<sup>333</sup>

<sup>327</sup> Reik, *op. cit.*, p. 161.

<sup>328</sup> Karl Abraham, "Der Versoehnungstag," *Imago*, VI, 83, 84. Reik, *op. cit.*, pp. 165, 166.

<sup>329</sup> Reik, *op. cit.*, p. 167.

<sup>330</sup> *Ibid.*, p. 172. Reik sees (p. 177) an analogy to the Catholic *Confiteor* which is also an advance purgation of evil thoughts that may arise during the service.

<sup>331</sup> *Ibid.*, p. 165.

<sup>332</sup> Karl Abraham, "Der Versoehnungstag," *Imago*, VI, 89.

<sup>333</sup> *Ibid.*, pp. 84, 85. The dances of the girls in Ta'anit IV, 8 indicate that the *Kol Nidre* is not the only reassertion of repressed tendencies elicited by the austerities of Yom Kippur.

The use of the indicative instead of the optative in the *Kol Nidre* Reik finds analogous to the wish fulfilments common in dreams and in neurotic fancies.<sup>334</sup>

All of the displacements alleged in his interpretation of the *Kol Nidre* Reik holds to be paralleled in dreams and in jests as well as in neuroses.<sup>335</sup>

In an article "Zur Psychologie der Bundesriten" Gezá Roheim adduces additional anthropological material in support of Reik.<sup>336</sup> Roheim's treatment of vows, oaths, compacts etc. invokes all of the Oedipus factors of our present discussion, namely, incest, the father's antipathy toward the son, the son's antipathy toward the father and—rounding out the ambivalence—the reconciliation between them.

Roheim instances the Bohemian oath form which consists in placing earth on the head and saying, "Mother Earth cover me if I do not tell the truth." He also cites the Wadschagga intertribal compacts at which a youth and a maiden are either buried alive in "Mother Earth" or buried after being cut in two. A regression to the intra-uterine situation is what Roheim thinks these express. Rebirth is symbolized according to Roheim in the covenant ritual of the *ben ha-gezarim* type (Gen. 15.17); by reason of their rebirth from the same mother, the participants become brothers. The miraculous passage of the Hebrews through the Red Sea is, in Roheim's opinion, analogous. He then quotes Jellinek that the beverages drunk at primitive compact makings represent mother's milk. All of these are mother reminiscences, hence incest vestiges.

The factor of paternal hostility toward the son is seen by Roheim in the aforementioned Wadschagga custom of signifying inter-tribal agreements by the slaying of a youth and a maiden.

<sup>334</sup> Reik, *op. cit.*, p. 167.

<sup>335</sup> *Ibid.*, p. 168. Reik cites the case of Freud's patient who said "If I marry that woman, misfortune will befall my father." What the patient really meant was: "If I marry that woman, my father will get angry and I shall wish his death." "Wieder haben wir hier Gelegenheit die grossartige Verschiebenheit unbewusster Tendenzen in der Abloesung von der Urspruenglichen Situation und in der weitgehendsten Verallgemeinerung zu bewundern" (p. 169).

<sup>336</sup> *Imago*, VI, 397.

The father's retaliatory slaughter of his offspring is thereby depicted.

The son's hostility toward the father is displayed in the Samoan custom of dissecting, at oath taking, the image of one of the gods. The slaying of the sacrificial animals on votive occasions is also a simulation of patricide.

Since the passing between the animal pieces typifies rebirth while the animal itself stands for the father, the ritual thus means, among other things, rebirth through the father. This implies, on the part of the son, renunciation of incest and, on the part of the father, the gracious annulment of the son's death and bringing him to life again. In the fact that, among the Wadschagga, it is the weaker party to intertribal compacts that supplies the youthful human victims, lies the thought of a self slaughter of the son or a vicarious slaughter for the son with a self-punitive and therefore conciliatory intent. A mitigated form of youth slaughter is that of circumcising the young persons and—suggestive presumably of vicariousness—drinking the blood mixed with water.

Another manifestation of the anti-paternal attitude is seen in the hostilities and rivalries among religious sects. Reik asserts that hostility toward other religions is but a cover for hostility toward one's own father-god.<sup>337</sup> The rebellion of others against our god is essentially the same as our own rebelliousness. We persecute others as a substitute for persecuting our own recalcitrant selves.<sup>338</sup> Reik claims that hatred and enmity are inseparable from all religions,<sup>339</sup> that religions are tolerant only when they are weak<sup>340</sup> and that the predilection of churches for military talk and imagery is as inevitable as it is notorious.<sup>341</sup>

The controversies between Judaism and Christianity are, in Reik's estimation, especially illustrative of the patricidal trend. Reik surmises two reasons for the animus with which Jesus is

<sup>337</sup> Reik, *Der Eigene und der Fremde Gott*, p. 220.

<sup>338</sup> *Ibid.*, p. 224.

<sup>339</sup> *Ibid.*, p. 223.

<sup>340</sup> *Ibid.*, p. 228. The persecuted turn persecutors, and there is "a return of the repressed."

<sup>341</sup> *Ibid.*, p. 224, p. 225 foot note.



viewed in Jewish circles. Jesus being in some ways identical with Yahweh, the Jewish hostility toward Jesus is a disguised hostility toward Yahweh.<sup>342</sup> This identity of Yahweh and Jesus is particularly established by the contrast figure of Judas. The relation of Judas to Jesus, Reik thinks, is that of an insurgent son toward an assaulted parent.<sup>343</sup>

In other respects Jesus is himself the insurrectionary son and thus for the Rabbis the embodiment of their own latent rebelliousness.<sup>344</sup> "Unconsciously the Rabbis identify themselves with Jesus, the revolutionary son-god and lover of the mother goddess . . . Their condemnation and contempt can be understood only as a reaction against their own wishes."<sup>345</sup>

There is even a sense in which fidelity to Yahweh can express opposition to the father. Reik holds that Yahweh was himself once a revolutionary son-god.<sup>346</sup> As a "revenant" he can, in relation to Jesus, continue with his insurrectionary role. Reik alleges that in this very aptitude for rebelling against his successor lies one of the reasons why a superceded god tends to become a demon.<sup>347</sup>

Largely similar are the dynamics of Christian hostility toward the Jew. The Jew is hated as the father representative, being the inflicter of circumcision or castration.<sup>348</sup> Reik, as we saw (supra p. 644), pronounces Shylock a castrator; the pound of flesh from a part of the body not mentioned at first but afterward mentioned as the breast exhibits a "*Verschiebung nach oben*."<sup>349</sup>

Again, the Christ whom the Jew opposes, being identical with Yahweh, the father, the Jew in killing Christ is but doing what the Christian unconsciously craves to do. As the Jew punishes himself by assailing the Christian in whom his own

<sup>342</sup> *Ibid.*, pp. 123, 128.

<sup>343</sup> *Ibid.*, p. 129. We might add that in the film "King of Kings," the defection of Judas is represented as being due to Jesus' alienation of Mary Magdalene's affections from Judas.

<sup>344</sup> *Ibid.*, pp. 118, 119, 142.

<sup>345</sup> *Ibid.*, p. 27, p. 119.

<sup>346</sup> *Ibid.*, p. 129, p. 130 foot note.

<sup>347</sup> *Ibid.*, p. 147.

<sup>349</sup> *Ibid.*, p. 211.

<sup>348</sup> *Ibid.*, p. 210.



longings are manifest, the Christian achieves self-punishment for his own deicidal proclivities conversely by harrowing the Jew.<sup>350</sup>

With a curious extreme of subtlety, Reik then works out through many removes of association, the following additional connection between the Christian persecution of the Jew and the Christian patricidal urge:

The Christian in persecuting the Jew voices the charge that the Jew is responsible for the evils of the world. The Jew, being responsible, the Christian is not responsible. The Christian therefore needs no atonement. Christ's atonement is consequently superfluous. In this way is Christ, the father-substitute, disparaged and the dignity, which by a slight remove means the life of the father, assailed.<sup>351</sup>

The charge of ritual murder and of host desecration are only expansions of the crucifixion charge.<sup>352</sup> It all signifies the killing and devouring of the father, a universal craving which either sect punishes in itself by attacking the other sect upon which its own self has been mentally projected.<sup>353</sup>

The precocious piety of R. Nachman of Bratislaw is explained by Jacob Becker also as a symptom of opposition toward the father<sup>354</sup> another indication of such opposition being a remark made by R. Nachman when, in a fit of depression, he observed that he was "leaving for a wilderness to chop down the trees growing there." Trees, we are apprised, are psychoanalytic imagery for the father. Chopping down the trees would thus signify overcoming the father.<sup>355</sup>

An amusing application of the Oedipus concept develops in the observation which Reik makes, no longer in the domain of sectarian fanaticism but in the antipodal domain of Biblical criticism. Reik thinks that the penchant of some scholars for

<sup>350</sup> *Ibid.*, p. 123.

<sup>351</sup> *Ibid.*, p. 202.

<sup>352</sup> *Ibid.*, pp. 128, 129. "Die Anklänge des Ritualmordes stellt eine vom unbewussten Schuldbewusstsein diktierte Projektion der Feindseligkeit gegen den eigenen Gott auf einen fremden Stamm vor" (p. 201).

<sup>353</sup> *Ibid.*, p. 201.

<sup>354</sup> *R. Nahman mi-Braslaw*, p. 9.

<sup>355</sup> *Ibid.*, p. 23.

emending *immo* to *abiw* in Gen. 24.67—"And Isaac was comforted for his mother"—arises from an unconscious wish in the academic mind to have the father out of the way and to possess the charming Rebecca.<sup>356</sup>

## VI. CONCILIATION BETWEEN FATHER AND SON<sup>357</sup>

### A. THE FATHER'S FRIENDLINESS TOWARD THE SON

At this juncture we must call to mind again the phenomenon of ambivalence which occupied our attention at the outset. If rivalry for the mother provokes hatred between father and son, other interests conduce to the opposite attitude. The complementary member of the ambivalence is friendliness, cordiality, affection between father and son.

Not without demonstration of this are the primitive initiation rites studied by Reik. After his ordeal the novice is welcomed into the *Maennerbund*.<sup>358</sup> He is free to marry. Illicit sex desires having been punished and suppressed, legitimate sex gratification is now in place. Between father and son there is now conciliation.<sup>359</sup>

Where circumcision is practiced, the circumcised youth are, as it were, emasculated, feminized<sup>360</sup> and hence the beloved of the fathers.<sup>361</sup> When we considered homosexuality (supra p. 629) we noticed the consequences of this.

Jacob whose incestuous leanings elicited such bitter antagonism from the father or the father-god now receives the paternal or divine blessing. According to one account, the blessing consists

<sup>356</sup> Reik, "Unbewusste Faktoren der Wissenschaftlichen Bibelarbeit," *Imago*, V, 361-363.

<sup>357</sup> Reik might have dwelt upon the etymological resemblance between *Sohn* and *Versoehnung*.

<sup>358</sup> Reik, *Der Eigene und der Fremde Gott*, p. 205.

<sup>359</sup> *Ibid.*, "Nach dieser Schaedigung, durch die dem inestuoosen Begehren der Juenglinge gewissermassen Einhalt geboten wird, wird der jungen Generation der legale Weg zum Weibe freigegeben." A similar idea in "Jaákobs Kampf," *Imago*, V, 331, 334.

<sup>360</sup> Ernest Jones, *Essays in Applied Psychoanalysis* (London, 1923), p. 430, sees such emasculation in the celibacy, robes and tonsure of the Christian clergy. This applies particularly to the sects that worship Mary in relation to whom incestuous attitudes are a possibility.

<sup>361</sup> Reik, *Der Eigene und der Fremde Gott*, p. 205.

in change of name, like the new name which, in primitive initiations, the novices receive.<sup>362</sup> The young initiates have presumably been killed and resurrected or reborn. At Beth-El the blessing for Jacob is the promise of fruitfulness<sup>363</sup> as Jacob proceeds to his marriage.<sup>364</sup> With the waning of the hatred that prompted the circumcision, the circumcision is according to Reik taken to be a condition of heightened fertility. Jacob presently becomes reconciled both with Esau and with Laban, his father substitutes.<sup>365</sup> The promised land is conferred upon Jacob because incest suspicions involving "Mother Earth" have now been allayed.<sup>366</sup>

It will be recalled that a similar access to "Mother Earth,"—a legitimate not an illicit one,—is seen by S. Radó in the Fifth Commandment, "in order that thy days may be long on the *adamah* which the Lord, thy God giveth thee" (*supra* p. 637).<sup>367</sup>

Reik holds that, "I and not an angel, I and not a seraph, I and not a messenger" hagadically interpreting Exod. 12.12 also expresses paternal kindness particularly in view of those other passages—Exod. 23.20; Num. 26.16—in which the angel substitute does function.<sup>368</sup>

Further explicable from this standpoint are certain features of *Yom Kippur* and certain aspects of the Sabbath:

*Yom Kippur* which begins with the *Kol Nidre*, the unconscious symbol of patricide, has as its object and sequel forgiveness and reconciliation.<sup>369</sup> Immediately upon the *Kol Nidre* follow the phrases of forgiveness from the Book of Numbers.<sup>370</sup> Finally vocative of the great reconciliation, the *Ne'ilah* at the end of the day brings the declaration that God is one.<sup>371</sup> "The covenant has been restored;" says Karl Abraham, "the slain father-God is acknowledged anew by His sons and He in turn resumes His obligations toward His children."<sup>372</sup>

<sup>362</sup> Reik, "Jaákobs Kampf," *Imago*, V, 333, 334.

<sup>363</sup> *Ibid.*, pp. 338, 343.

<sup>364</sup> *Ibid.*, p. 337. In his "Kainzeichen," *Imago*, V, 31–42, Reik overlooks the possibility of a similar interpretation of Cain's marriage.

<sup>365</sup> *Ibid.*, p. 339.

<sup>366</sup> *Ibid.*, p. 334.

<sup>367</sup> Rado, "Das feunfte Gebot," *Imago*, IX, 129.

<sup>368</sup> Reik, *Der Eigene und der Fremde Gott*, p. 146.

<sup>369</sup> Reik, *Probleme der Religionspsychologie*, p. 167.

<sup>370</sup> Num. 15.26; 14.19, 20.

<sup>371</sup> Reik, *op. cit.*, p. 89.

<sup>372</sup> Karl Abraham, "Der Versöhnungstag," *Imago*, VI, 89.

As regards the Sabbath, the note of paternal cordiality appears in the transformation of the Sabbath from a *dies nefas* to a day of joy.<sup>373</sup> Ehrich Fromm thinks that this occurred at a time when the omission of a day's work was no longer economically perilous.<sup>374</sup> A Sabbath of Puritan gloom then gives way to a Sabbath of Hassidic gaiety.<sup>375</sup> We have already observed how Paradise and the Messianic Age become associated with the Sabbath and how these stood for re-established harmony between man and nature.<sup>376</sup> They also stood for immunity from work—that work which originally penalized a dereliction connected with sex<sup>377</sup> (supra p. 637).

#### B. THE SON'S FRIENDLINESS TOWARD THE FATHER

Far more extensive is the variety of religious manifestations derived from the genial factors in the son's feelings toward the father. The theory is that after the primordial patricide the kinder filial sentiments reasserted themselves.<sup>378</sup> In the very act of eating the slain father some notion of appropriating his admired powers is alleged to have been operative.<sup>379</sup> For the hideous deed there supervenes a sense of guilt and a process of self-punishment that has left its imprint upon religion in many ways.<sup>380</sup>

<sup>373</sup> Ehrich Fromm, "Der Sabbath," *Imago*, XIII, 227. This author quotes Isa. 58.15 and *Orah Hayyim* 260, 262, 280, 287, 288, 290, 328, 329. He might have noted in addition the sex implications of 262 and 280.

<sup>374</sup> Fromm, *op. cit.*, p. 229.

<sup>375</sup> *Ibid.*, p. 234.

<sup>376</sup> *Ibid.*, p. 225.

<sup>377</sup> *Ibid.*, p. 233. According to Lorenz, just as the confusion of tongues for the attempt to build the Tower of Babel represents castration, so does the glossalalia of the Christian Pentecost and of other glossalalia myths stand for the remedying of the castration. Cf. supra pp. 644, 648.

<sup>378</sup> Reik, *Probleme der Religionspsychologie*, p. 155. Freud "Totem und Tabu, p. 132.

<sup>379</sup> Reik, *Der Eigene und der Fremde Gott*, p. 202. There is some parallel here to the supposition that eating the forbidden fruit of Paradise would make the eater resemble the gods. Cf. Ehrich Fromm, "Der Sabbath," *Imago*, XIII, 226.

<sup>380</sup> Abraham, "Der Versöhnungstag," *Imago*, VI, 84. Reik, *Probleme der Religionspsychologie*, pp. 163, 174, 176. *Der Eigene und der Fremde Gott*, p. 201.

Various religious acts of silence for instance—would Reik have included our own silent devotions?—are said to have implied originally an emulative imitation of the dead father and at the same time a punitive self-slaying. Reik dilates upon this in his interpretation of the passage, "All the earth keep silent before Him."<sup>381</sup> Reik instances a clinical case of aphasia in which a patient whose voice became fainter and fainter and finally extinct was found upon analysis to be symbolically putting herself to death in self-punishment for certain mentally committed derelictions.

Fasting as a religious act is similarly viewed. Fasting is a negation of the eating of the father.<sup>382</sup> The taboo of the thigh tendon is also traced by Reik to that hypothetical patrophagy, especially in view of the sexual implications of the thigh tendon and the sexual occasion of the murder.<sup>383</sup>

Indeed asceticism in all of its forms is said to belong here.<sup>384</sup>

Another species of self-punishment is circumcision (castration), a doing to one's self what one's father, goaded by jealousy, would do to one.<sup>385</sup> Variations and derivatives of circumcision are not only the pulling out of hair and the knocking out of teeth but also, according to Reik, rituals as modern as baptism, communion and the *Seder*.<sup>386</sup>

Reik further understands the mark of Cain to have been such a punitive circumcision.<sup>387</sup> He is sustained by Biblical evidence of circumcision among the Kenites<sup>388</sup> as well as by the psychoanalytic doctrine, illustrated by the Cain-Abel story, that a brother can be a father-substitute (supra pp. 638, 649).

The self-execrations conditionally expressed in vows and

<sup>381</sup> Reik, "Die Bedeutung des Schweigens," *Imago*, V, 357. The Biblical passages are Hab. 2.20; Zeph. 1.7; Zech. 2.17.

<sup>382</sup> Ehrich Fromm, "Der Sabbath," *Imago*, XIII, 232.

<sup>383</sup> Reik, "Jaákobs Kampf," *Imago*, V, 341.

<sup>384</sup> Reik, *Der Eigene und der Fremde Gott*, p. 224 foot note.

<sup>385</sup> Freud, *Totem und Tabu*, p. 141.

<sup>386</sup> Reik, *op. cit.*, p. 218.

<sup>387</sup> Reik, "Das Kainzeichen," *Imago*, V, 41.

<sup>388</sup> Reik refers to the Biblical passages, Judg. 1.16; Exod. 4.24, 28. He surmises that Saul may for this reason have spared the Kenites (I Sam. 15.6). Reik refers to H. Zeydner, *Kainzeichen, Keniter und Beschneidung*, p. 120.



oaths are also, according to Reik, vestiges of the identical self-punishments. Reik reports analogous manifestations in the neuroses.<sup>389</sup>

A large element of self-punishment for patricide or for patricidal wishes is discerned by Ehrich Fromm in the various Jewish Sabbath stringencies. The Sabbath, Fromm recalls, is not unrelated to the Babylonian *dies nefas* and to Atonement Day. The very act of abstention from work involves a risk of privation. Fromm instances the prohibition of cooking, baking, leaving the house, kindling fire,<sup>390</sup> fighting, plucking grain, healing of slight ailments, cutting,<sup>391</sup> the use of cosmetics,<sup>392</sup> touching of implements etc. as well as the prohibition of cohabitation<sup>393</sup> with all that this implies relative to incest; and the identity of these restrictions with mourning limitations.<sup>394</sup> The death penalty for violations brings the Sabbath signally within the range of "measure for measure."<sup>395</sup>

On Atonement Day not only is eating foregone in expiation of having eaten the father; cohabitation also is forbidden in reminiscence presumably of the incest longings in which the conflict originated.<sup>396</sup> Karl Abraham regards as particularly relevant the reading of the incest passages from Leviticus at the services of Atonement morning.<sup>397</sup> On the Sabbath, as we saw, the work chiefly avoided was that of 'abodah, plowing (supra p. 637), the incest symbolism of which we duly noted.<sup>398</sup> Circumcision, the substitute for castration is obviously related to incest.

<sup>389</sup> Reik, *Probleme der Religionspsychologie*, pp. 154, 156.

<sup>390</sup> Ehrich Fromm, "Der Sabbath," *Imago*, XIII, 226. The references are Exod. 16.23, 29; 35.3.

<sup>391</sup> His reference is I Macc. 2.32; II Macc. 5.25; 6.11.

<sup>392</sup> Sabbath X, 6.

<sup>393</sup> Jubilees 50. 8, also the Karaitic view attacked by Ibn Ezra on Exod. 34.21 "beharish ubakazir tishbot."

<sup>394</sup> Fromm., *op. cit.*, p. 223.

<sup>395</sup> His reference is Exod. 35.2.

<sup>396</sup> Fromm., *op. cit.*, p. 232. See *Rabbi Burns* by Aben Kandel (New York 1931): "I'm afraid I'll have to look up a wench later on," continued Adam. "You know—there's something erotic about Yom Kippur. I first became conscious of passion on that day. I guess the Day of Atonement is an aphrodisiac."

<sup>397</sup> Karl Abraham, "Der Versöhnungstag," *Imago*, VI, 86.

<sup>398</sup> Fromm., *op. cit.*, pp. 225, 226, 234.



When we read in Reik's "Das Kainzeichen" that "the mutilation of the sex organ is a punishment for those incestuous wishes that precipitated the fratricide"<sup>399</sup> we must keep in view the legend about the rivalry of Cain and Abel over their sister and, once again, the psychoanalytic theory that sister can be a mother-substitute as brother can be a father-substitute.

We must also consider what Jacob Becker says about the son-toward-father cordiality of R. Nachman of Bratislaw. Becker relates to the Oedipus symptoms previously discussed<sup>400</sup> (supra pp. 641, 647, 656) the ascetic practices of R. Nachman. R. Nachman's distress at and disparagement of sex relations<sup>401</sup> are, in Freudian theory, signs of incestuous fixation and self-punishment for the fixation.<sup>402</sup>

We have been apprised that our persecution of others can be a disguised persecution of our own rebellious selves<sup>403</sup> and that Christian persecution of the Jews amounts to a Christian self-punishment just as Jewish antagonism to Christians can be a Jewish self-punishment.<sup>404</sup> Unconsciously identifying himself with his victims Torquemada, says Reik, was the chief heretic sought by Torquemada.<sup>405</sup> Internecine contentions among the Jews or among the Christians themselves have often the same import.<sup>406</sup> We have already heard (supra p. 631) that the Jews were even so masochistic as to desire persecution<sup>407</sup> and that their conduct did much to invite persecution;<sup>408</sup> all by way of self-punishment for patricidal or deicidal memories or impulses.<sup>409</sup> The last word

<sup>399</sup> Reik, "Das Kainzeichen," *Imago*, V, 41. Reference is made here to Rank and Sachs, *Die Bedeutung der Psychoanalyse fuer die Geisteswissenschaft*, p. 44.

<sup>400</sup> Becker, *R. Nahman mi-Brazlaw*, p. 23.

<sup>401</sup> *Ibid.*, p. 12.

<sup>402</sup> *Ibid.*, p. 13. It was not possible to find this point in Freud's *Gas. Schr.* VII, p. 27, referred to by Becker.

<sup>403</sup> Reik, *Der Eigene und der Fremde Gott*, pp. 123, 128, 224, 256. Elsewhere (p. 201), Reik explains that one's own hate for the god is projected upon others and then those others punished because of one's love for the god.

<sup>404</sup> *Ibid.*, pp. 124, 125.

<sup>405</sup> *Ibid.*, p. 226.

<sup>406</sup> *Ibid.*, p. 120.

<sup>407</sup> *Probleme der Religionspsychologie*, p. 303.

<sup>408</sup> Reik, *Der Eigene und der Fremde Gott*, p. 236.

<sup>409</sup> *Ibid.*, p. 227.

concerning religious persecution may thus be self-punishment for the primordial patricide or for the never uprooted patricidal desire.<sup>410</sup>

The vicarious atonement doctrine everywhere bears intimations of a restitution for the all overshadowing "*Vatermord*."<sup>411</sup> In old Mexican initiation rituals a youth would be killed.<sup>412</sup> Elsewhere child sacrifice or its attenuation in the form of circumcision prevailed; all of which represents vicarious compensation for the patricide which youth committed primordially or psychically.<sup>413</sup> Reik sees the same notion in the death of the mother lovers, Attis, Adonis and Tammuz.<sup>414</sup> The Christian Christ is of course the best known instance,<sup>415</sup> although Moses in Exodus likewise offers himself vicariously.<sup>416</sup> Freud ascribes an identical sense to the suffering hero in Greek tragedy<sup>417</sup> as Reik does to Shakespeare's Antonio who is in relation to his friends like a son-god assuming the guilt of his brothers.<sup>418</sup> The ritual murder phantasy, Reik thinks, belongs also to this pattern.<sup>419</sup> A child, substituting for the son-god, is slain and its blood supposedly eaten in *mazzot*.<sup>420</sup> The *mazzot* themselves can, like the eucharist, be the equivalent of a son-deity in whose consumption the devouring of the father-god obtains vicarious retribution.<sup>421</sup>

Further manifestations of the son's cordiality lie in the various attempts at averting patricidal outbreaks. We have seen how, according to Reik (*supra* p. 651) all vows are derivatives of a prototype vow never to repeat the patricide.<sup>422</sup> A repudiation

<sup>410</sup> It must at no time be overlooked that by the "*Allmacht der Gedanken*," the desire to kill is, in psychoanalysis, the same as actual killing.

<sup>411</sup> Reik, *Der Eigene und der Fremde Gott*, p. 200.

<sup>412</sup> *Ibid.*, p. 202.

<sup>413</sup> *Ibid.*, p. 218.

<sup>414</sup> *Ibid.*, p. 141.

<sup>415</sup> *Ibid.*, p. 120.

<sup>416</sup> Reik, *Probleme der Religionspsychologie*, p. 285. The reference is to Exod. 32.32.

<sup>417</sup> Freud, *Totem und Tabu*, p. 144.

<sup>418</sup> Reik, *Der Eigene und der Fremde Gott*, pp. 210-213.

<sup>419</sup> *Ibid.*, p. 203.

<sup>420</sup> *Loc. cit.*

<sup>421</sup> *Ibid.*, p. 202.

<sup>422</sup> Reik, *Probleme der Religionspsychologie*, pp. 155, 163.

of patricide is therefore the sense of the strong Jewish compunctions about vow fulfilment as also of the extensive casuistry by which the impulse to violate vows is combatted or circumvented.<sup>423</sup> Special precautions against vows seem to have been needed during the Jewish penitential season. In the sixteenth century the taking of vows and oaths during the ten days of penitence was specifically forbidden.<sup>424</sup> Times of repression are precisely the times when the danger of outbreak is greatest.<sup>425</sup>

In the *Kol Nidre*, as we saw, the outbreak actually occurs.<sup>426</sup> The *Kol Nidre* verbs in the past tense are understood by Reik to signify an eagerness to terminate the period of peril and suspense.<sup>427</sup> Both Reik and Abraham<sup>428</sup> view the insertion which throws the discourse into future time as a "*Vorbeugungsmassregel*"—an act of averting outbreaks yet to come.<sup>429</sup> In neuropathology, we are informed, such time transpositions are familiar.

Another way of making amends to the father is that of rejecting the son.<sup>430</sup> Reik claims that the Jews would tolerate a Messiah only so long as he remained a phantasy,<sup>431</sup> exactly as individuals toy with fancies whose realization they would find abhorrent. The Messiah, Christ, received the hostile trends of the ambivalence toward the father while Yahweh received the affectionate ones.<sup>432</sup> Corresponding to Yahweh, the adored and

<sup>423</sup> *Ibid.*, p. 311, p. 165. We may recall that Quakers decline altogether to take oaths.

<sup>424</sup> *Ibid.*, p. 170.

<sup>425</sup> Reik instances the case of the reservations that would be attached to her vows by a neurotic woman who was in the habit of vowing by the life of her husband and then of becoming seized with an obsession to violate her vows.

<sup>426</sup> "Der Kol Nidre ist der periodisch wiederholte Versuch sich von der Last dieses Zwanges durch einen einzigen gewaltsamen Akt zu befreien. Auf den Exzess musste dann die Busse und die Neuerrichtung des Bundes folgen" (Karl Abraham, "Der Versoehnungstag," *Imago*, VI, 85).

<sup>427</sup> "Die Verschiebung auf das vergangene Jahr liegt durchaus im Sinne der zwangneurotischen Symptome und ist durch die Ausdehnung der Erwartungsangst motiviert" (Reik, "Probleme der Religionspsychologie," p. 170).

<sup>428</sup> Abraham, "Der Versoehnungstag," *Imago*, VI, 86.

<sup>429</sup> The word is Karl Abraham's.

<sup>430</sup> Reik, *Probleme der Religionspsychologie*, p. 283. "*Der Eigene und der Fremde Gott*, pp. 32, 33.

<sup>431</sup> *Der Eigene und der Fremde Gott*, p. 120.

<sup>432</sup> *Ibid.*, p. 121.

Jesus, the hated among the Jews was Jesus, the adored and Judas, the hated among the Christians; Judas, as we have already heard, being a kind of son-substitute in relation to Jesus (supra p. 655).

Reik thinks he glimpses indications that in prehistoric times the Hebrews faced an alternative between loyalty to a hated father-god or to a revolutionary son-god. By an "*Affektumkehr*" the choice was eventually in favor of the father-god.<sup>433</sup> The result was an elimination and rejection of son-gods from Judaism, precisely as in the life of the individual amnesia is the fate of that which is repudiated with vigor.<sup>434</sup>

To friendliness toward the father is also attributed the regulation forbidding the use of iron at altar building<sup>435</sup> and the custom of pouring blood upon the altar.<sup>436</sup> It was believed that the deity resided in the altar and that iron would wound the deity. The blood on the altar was nourishment for the deity.

Reik reads an overcompensation for the injury done the father in the New Testament charge that the Jews adorned the graves of the prophets whom they had slain.<sup>437</sup>

Eventually there is the resurrection of Christ, the substitute for the slain father who thus in phantasy comes to life again,<sup>438</sup> while the homage accorded Christ, the father-substitute, is homage to the father.<sup>439</sup> Similarly at the *Ne'ilah*, as Karl Abraham has told us (supra p. 658), "the slain father-god is acknowledged anew by his children" in the declaration that God is one.<sup>440</sup>

<sup>433</sup> *Ibid.*, p. 32.

<sup>434</sup> Reik gives an example of such amnesia in the case of the young woman mentioned supra p. 628 who in her revulsion toward her own sexual desires, came to forget the name "Ben Hur." Reik says: "Das Herausdraengen des Sohnesgottes aus dem Judenthum entspricht indessen ebenso wie das Vergessen des Romantitels seitens der jungen Dame der Abweisung der staerksten eigenen Wuensche" (p. 28).

<sup>435</sup> Exod. 20.25.

<sup>436</sup> *Probleme der Religionspsychologie*, p. 308.

<sup>437</sup> *Der Eigene und der Fremde Gott*, p. 124. The reference is to Matt. 23.29-31.

<sup>438</sup> Ehrich Fromm, "Der Sabbath," *Imago*, XIII, 233.

<sup>439</sup> Reik, *op. cit.*, p. 201.

<sup>440</sup> Karl Abraham, "Der Versoehnungstag," *Imago*, VI, 89.

## VII. AMALGAMATIONS

Before leaving this phase of our subject it may be well to stop and admit that our dissecting of the Oedipus Complex into the trends discussed above was, though necessary, not without precariousness. Often a number of opposing trends amalgamate in the production of one and the same act.

The primitive eating of the father, we saw, combined in one act the hatred that annihilates and the admiration that would incarnate and emulate. Reik mentions specifically the Jewish Paschal meal and the Christian Eucharist as rites in which, by original implication, the honoring of the father is merged with the eating of the father.<sup>441</sup> Persecution can be at one and the same time a persecuting of one's self and a persecuting of one's opponents. The persecutor abuses his own god even while he abuses the enemies of his god.<sup>442</sup>

Theological and ritual casuistries are, according to Reik, specimens of the same tendency. In them, belief and disbelief, hostility and devotion are inextricably tangled and relentlessly in conflict.<sup>443</sup> Similarly with "a return of the repressed out of the repressing" do patricidal and anti-patricidal urges mingle in oaths<sup>444</sup> (supra pp. 651, 652).

The defiant words of the *Kol Nidre* are wedded to a melody which, with ineffable grace, expresses submission and repentance.<sup>445</sup> This conflict of tendencies is, in Reik's opinion, at the bottom of the sobbing and other demonstrations of emotion by which the Orthodox singing of the *Kol Nidre* is customarily attended.<sup>446</sup>

The crucifixion, Reik holds, represents not only the expiation

<sup>441</sup> Reik, *op. cit.*, pp. 202, 203.

<sup>442</sup> *Ibid.*, p. 222.

<sup>443</sup> Reik, "Dogma und Zwangsideo," *Imago*, XIII, 292, 296, 297, 378.

<sup>444</sup> Reik, *Probleme der Religionspsychologie*, p. 162. Reik thinks in this connection of a picture by Rops in which there appears to a praying monk in the place of a crucifix the vision of a voluptuous woman.

<sup>445</sup> Karl Abraham, "Der Versöhnungstag," *Imago*, VI, 81.

<sup>446</sup> "Im individuellen Seelenleben vollziehen sich dieselben aufwuehlenden und nachhaltigen Kaempfe die in der Geschichte des Volkes den Anstoss zu grossen, religioesen, sittlichen und sozialen Einrichtungen lieferten (*Probleme der Religionspsychologie*, p. 169).



of the patricide but also a repetition thereof;<sup>447</sup> while angels, he surmises, embody a compromise between a god that reigns and a god that is dethroned and demonized.<sup>448</sup>

Into this discussion also we can best place a number of observations offered concerning R. Nachman of Bratislaw. R. Nachman's visual<sup>449</sup> and auditory<sup>450</sup> hallucinations are asserted by Becker to have been such as Freud finds symptomatic of repression connected with longings that are adulterous and incestuous. Such particularly is believed by Becker to have been the nature of R. Nachman's "great and fearful trials"<sup>451</sup> attending his struggles against certain sex propensities. Other symptoms were such events in R. Nachman's career as his sudden and inexplicable wanderings to Medzibocz, to Kaminitz and to Palestine,<sup>452</sup> his frivolous deportment at Stamboul en route to Palestine,<sup>453</sup> his epileptic fit at the grave of R. Naphtali<sup>454</sup> and his revulsion of feeling toward Palestine the moment he arrived there. All of this is interpreted by Becker as indicative of the unconscious promptings connected with Oedipus trends and their concomitant repression.

Rank and Sachs contend that religion is such a body of compromises exclusively.<sup>455</sup>

### VIII. TOTEMISM—INCEST

All that has thus far been said is supplemented and complicated by a set of striking totemistic phenomena,—that is phenomena involving the identification of men and of gods with animals.

<sup>447</sup> Reik, *Der Eigene und der Fremde Gott*, p. 128.

<sup>448</sup> *Ibid.*, p. 147.

<sup>449</sup> Jacob Becker, *R. Nahman mi-Braslaw*, p. 11. It was not possible to locate this in Freud's *Ges. Schr.* V, p. 463, referred to by Becker.

<sup>450</sup> *Ibid.*, p. 12.

<sup>451</sup> *Ibid.*, p. 11.

<sup>452</sup> *Ibid.*, p. 21.

<sup>453</sup> The reader is reminded of the frivolous conduct of Friar Juniper in "The Little Flowers of St. Francis."

<sup>454</sup> Becker, *op. cit.*, p. 21.

<sup>455</sup> "All the religious practices as compromise products have a double face; their effect consists in the facilitation of the renunciation of the gratification of socially hostile instincts; their essence lies in their allowing partly merely in the myth creating phantasy, partly by cultistic and ritualistic practice, the forbidden acts represented in the phantasy." (Rank and Sachs, *The Significance of Psychoanalysis for the Mental Sciences* [New York, 1916], p. 70.)



We are told that, like our own children, primitive people regard animals as the equals and the kindred of men, readily conceiving themselves as descended from animals and of animals as incarnating the souls of the human departed.<sup>456</sup> Much in Judaism has been interpreted totemistically.<sup>457</sup> Attention is called to such names as Caleb, Rachel, Leah, Deborah, Jonah, Hamor, Tola, Zippor—in all, fifty-three names of animals which are used in the Bible as personal or as clan names.<sup>458</sup>

An example to which we shall have frequent occasion to refer is the *shofar*. The horn of an animal, Reik tells us, can represent the father or the god into which the father evolved; because originally the re-incarnated father or the god was an animal possessing horns and the horn is the part for the whole.<sup>459</sup> Reik recalls that horned figures of the gods have been unearthed in Babylonian excavations.<sup>460</sup> The moon was in antiquity conceived of as a horned being and as a god; and the phases exhibited by the moon were the original determinants of the Jewish Sabbath.<sup>461</sup> Resembling the cases of Triton, Heimdall, Brahma, the sound of the horn is in certain Biblical passages treated not as a representation of the deity's voice but as that voice itself.<sup>462</sup> Reik dwells extensively upon the curious wording in Exod. 19.13, "*bimeshok ha-yobel hemmah yu'alu bahar*."<sup>463</sup> It is the *yobel*, the ram that makes the sound when Yahweh makes the sound. The sound of the animal's horn and the sound of its voice are of course

<sup>456</sup> Freud, "*Totem und Tabu*," 1913, pp. 117–122.

<sup>457</sup> Freud (*op. cit.*, p. 126) quotes Robertson Smith, *Religion of the Semites* (1907), p. 412, that the Semites had totem sacrifices which consisted in killing and eating the totem animal. That point however does not stand on p. 412 of the 1907 edition of Smith's work.

<sup>458</sup> Reik, *Probleme der Religionspsychologie*, p. 232.

<sup>459</sup> *Ibid.*, p. 215. Reik calls the horn "eine Resterscheinung des urspruenglichen goettlichen Totems."

<sup>460</sup> Frieda Fromm-Reichmann, "Das juedische Speiseritual," *Imago*, XIII, 240.

<sup>461</sup> Ehrich Fromm, "Der Sabbath," *Imago*, XIII, 227.

<sup>462</sup> Reik, *op. cit.*, pp. 205, 206. The Biblical references are Zech. 9.14; Isa. 27.13; Rev. 1.10. This already shows an elevation over the Yahweh who does not blow the horn but who bellows like a beast.

<sup>463</sup> Reik, *op. cit.*, p. 202. Reik notices that Baentsch ascribes the passage to E1 and the context to E2 and (we may add) to J.

easily equated. When people hear the horn they hear Yahweh.<sup>464</sup> The signal given by the horn is the signal given by Yahweh. The sound of the horn is not that alongside of which but that *in* which Yahweh speaks. Nor is this the only Biblical passage in which the deity is identified with a horned animal, especially the ram.<sup>465</sup> In the ritual—such is Karl Abraham's probably erroneous statement—one may not look upon the blower of the horn just as one may not, without risking death, look upon Yahweh.<sup>466</sup>

We shall now follow our former scheme of arraying the several factors of the Oedipus situation in the order: Incest Longings, Father's Hostility toward the Son, Son's Hostility toward the Father, Father's Friendliness toward the Son, Son's Friendliness toward the Father.

Totemistic incest implications have been attributed to the following: The *Shofar*, the halo, the law regarding unclean animals, the law against seething the calf in its mother's milk, the law about letting the mother bird go free.

The *Shofar* is connected with sex and with incest in a number of ways:

1. The horn is an instrument of sound and psychoanalysts have long observed a unique connection between sex and sound. Neurotics sometimes whisper and become afflicted with aphasia because unconsciously they associate, with speaking, sexual license.<sup>467</sup> The mouth zones whence sounds issue are inseparable from the sexual demonstrations of kissing and of breast sucking.<sup>468</sup>

<sup>464</sup> Reik, *op. cit.*, pp. 205–207.

<sup>465</sup> Reference is made to Amos 1.2; Num. 23.22. Yahweh is called "*Abir Ja'akob*" in Gen. 49.24; Isa. 1.24; 49.26; 60.16; Ps. 132.2, 5. "Wenn der Gott, der urspruenglich von den Juden verehrt wurde, der Stier oder der Widder war, verstehen wir warum seine Stimme aus dem Horne eines Widders toent" (Reik, *op. cit.*, pp. 207, 208). Reference is also made to Scheftelowitz, *Das Hoernermotiv in den Religionen*, p. 450.

<sup>466</sup> "Bezeichnend ist der von Strengglaebigen eingehaltene Gebrauch den Blick vom Schofarblaeser abzuwenden" (Karl Abraham "Der Versoehnungs-tag," *Imago*, VI, 87. Cf. also pp. 88–89). It has not been possible to verify this assertion.

<sup>467</sup> Reik, *Probleme der Religionspsychologie*, p. 217. Supra p. 660 concerning the neurotic woman whose voice grew progressively fainter.

<sup>468</sup> Abraham in *Internationale Zeitschrift fuer Aertzliche Psychoanalyse* IV, 1916, 2. The article is on page 74.

To the technique of love making, singing and serenading belong.<sup>469</sup> Reik recalls the German phrase, "*einer Dame ansprechen*."<sup>470</sup> He might have added the Hebrew phrase "*dabber el leb*."<sup>471</sup> Before Reik, Storfer had observed that words *spoken* to Mary at the annunciation resulted in her pregnancy.<sup>472</sup>

2. The horn is further related to sex by reason of its resemblance to the male organ of sex.<sup>473</sup>

3. The horn is also unconsciously regarded as an instrument of castration, the presumed punishment for derelictions of sex. Thus neurotic children have a fear of being butted by some animal.<sup>474</sup> The child interprets sexual intercourse as a castration of the mother by the sex organ of the father.

4. The horn also stands for strength, then specifically for sexual strength and ultimately for the strength to impregnate the mother.<sup>475</sup> Blowing the horn thus signifies, through many removes of association, the committing of incest.<sup>476</sup>

Halos, aureoles etc. are refinements of horns evolving out of the resemblance of horns to the sun's rays both in appearance and as embodiments of power—ultimately, of course, of sex power.<sup>477</sup> Mediaeval art displays the transition from horns to rays when, with two rays emanating from his head, God, the father is pictured.

<sup>469</sup> Reik, *op. cit.*, p. 211.

<sup>470</sup> *Ibid.*, p. 217.

<sup>471</sup> Cf. George Adam Smith *Commentary on Isa.* 40.2. A similar use of *dabber el leb* in Gen. 34.3; Ruth 2.13. The use is non-sexual in Gen. 50.21 and in II Chron. 32.6.

<sup>472</sup> Storfer, *Marias jungfrauliche Mutterschaft*, p. 84.

<sup>473</sup> "Es ist als Sexuelsymbol stellvertretend fuer das maennliche Genitale" (Reik, *Probleme der Religionspsychologie*, p. 215).

<sup>474</sup> *Ibid.*, p. 216. "Butt," we may add, is an American pornophemy.

<sup>475</sup> *Ibid.*, p. 209 and Scheftelowitz, *op. cit.*, p. 456.

<sup>476</sup> "Wenn nun die Glaebigen . . . sich des Hornes des Totemtieres bemaechtigen, so entspricht dies der Durchsetzung jenes unbewussten Wunsches, sich in Besitz des grossen Penis des Vaters zu setzen, sich seine sexuelle Kraefte anzueignen" (Reik, *op. cit.*, p. 217). "Wir glauben dass dies in erster Linie auf die symbolische Penisbedeutung des Hornes zurueckzufuehren ist, die ja auch das horntragende Tier urspruenglich zur Vater-Imago im Sinne des Totemismus besonders geeignet gemacht hat" (p. 239).

<sup>477</sup> *Ibid.*, p. 264.

According to Frieda Fromm-Reichmann, incest motives figure likewise in the Biblical distinction between clean and unclean. She argues that the clean species are those that have horns or horn-like substances such as fins or scales or are capable of having such.<sup>478</sup> The circumstance that this is not stated in the text but is rather circumlocuted and concealed is to her additional evidence of a sex import, inasmuch as sex invites concealment.

Frieda Fromm-Reichmann brings as evidence some striking clinical observations. She tells of a young man reared in an Orthodox Jewish home who confessed that the sight of forbidden meat aroused in him sexual reactions.<sup>479</sup> There would be erection, palpitation, swift breathing etc. and then subsequent to the eating of the forbidden food a relaxation like that following *coitus*. A woman patient twenty years of age similarly experienced sexual excitement when eating food of the kind spurned by her Orthodox Jewish parents, although violation of other ritual requirements left her unaffected. "These examples" says Frieda Fromm-Reichmann, "show that the unconscious intent of the dietary code was to prevent incest."

Frieda Fromm-Reichmann's theories would carry more plausibility if the horned animals were not the permitted ones but the forbidden ones. We could then interpret: The horn represents the sex power of the father. We are forbidden to appropriate that power.

However, the logic of the unconscious is erratic. Perhaps we should understand that the limiting of the dietary to certain species signifies a limit imposed upon incestuous tendencies, while the factor of horns designates that incest is the thing subject to the limitation.

Frieda Fromm-Reichmann herself believes that the dietary laws must be viewed in connection with the prohibition of blood eating.<sup>480</sup> Since blood is omitted from the dietary the essential, the "life," is omitted. The eating of the horned animal thus

<sup>478</sup> Frieda Fromm-Reichmann, "Das juedische Speiseritual," *Imago*, XIII, 239.

<sup>479</sup> *Ibid.*, p. 246.

<sup>480</sup> *Ibid.*, p. 241. The Bible passages are Lev. 3.17; 7.26, 27; 17.10ff.; Deut. 14.21.

becomes innocuous. Since the eating of horned creatures is innocuous, the eating of all others must be sexually obnoxious.

"Thou shalt not see the calf in its mother's milk" is also declared to be a prohibition of incest.<sup>481</sup> It is construed to mean: "thou, the son, i.e. the calf, shalt not cohabit with thy mother." "So begeht man das Urverbrechen des Inzests."

Finally laden with the same implication is the law in Deuteronomy, "Thou shalt not take the dam with the young."<sup>482</sup> "To take" in Hebrew means to wed, hence to cohabit. The verse thus connotes, according to Frieda Fromm-Reichmann, "Thou shalt not cohabit with thy mother."<sup>483</sup> The promise of prosperity and long life is a point of resemblance between this command and the Fifth Commandment.<sup>484</sup> That the unconscious sense of the Fifth Commandment was incest prohibition, we have already been told by Radó (supra pp. 637, 638).

## IX. TOTEMISM—HOSTILITY BETWEEN FATHER AND SON

### A. HOSTILITY OF THE FATHER TOWARD THE SON

Extremely rich in totemistic implications of the father's hostility toward the son is the *Shofar*.

First there is the copious association of the *Shofar* with death. The *Shofar* is blown on Rosh Ha-Shanah when the heavenly decision is rendered for life or for death.<sup>485</sup> There was a time when the *Shofar* would be blown to announce the death of eminent Rabbis. Like the Roman *tuba* it would be blown at funerals.<sup>486</sup> Suggestions of death lurk also, Reik thinks, in the Maimonidean homily that the *Shofar* awakens the sleeping; sleep is a familiar equivalent of death.<sup>487</sup>

<sup>481</sup> *Ibid.*, pp. 241, 242. The passages are Exod. 23.19; 34.26; Deut. 14.21. Frieda Fromm-Reichmann thus ventures an answer where Karl Abraham (*Imago*, VI, 88) declares himself unable to answer.

<sup>482</sup> Deut. 22.6, 7.

<sup>483</sup> Frieda Fromm-Reichmann, *op. cit.*, pp. 242, 243.

<sup>484</sup> The author might have made some use of the story in Kid. 39b involving both of these passages.

<sup>485</sup> Reik, *Probleme der Religionspsychologie*, pp. 220, 241.

<sup>486</sup> *Ibid.*, p. 189. Moed Katon 27b speaks of the use of the *Shofar* to announce a death in the community.

<sup>487</sup> *Ibid.*, p. 242.



Again the *Shofar* is associated with danger and terror. It would be sounded to give alarm upon the approach of the enemy.<sup>488</sup> Excommunication would be proclaimed by its blast. Awe-inspiring it resounds at the Sinaic theophany.<sup>489</sup>

Reik sees numerous resemblances between the *Shofar* and the bull roarer of certain primitive tribes. Like the bull roarer the *Shofar*, by the paucity of its tones, shows its primitiveness.<sup>490</sup> As the bull roarer is preserved in the tribal *Maennerhaus*, the *Shofar* is preserved in the synagogue or Temple. The bull-roarer is used among aborigines to frighten the young novitiates at their initiation.<sup>491</sup> It simulates the thunderous voice of the Balum monster or of some dead ancestor.<sup>492</sup> At Sinai the Hebrews, frightened by the *Shofar* were in the position of initiates who are being inducted into the *Maennerbund*.<sup>493</sup> As the *Shofar* has been associated with death and resurrection, the initiatory rites of aborigines are, in Frazer's words, "the ritual of the death and the resurrection."<sup>494</sup> Reik surmises back of all of this a warning against incestuous and patricidal impulses just as to the child

<sup>488</sup> *Ibid.*, p. 186. We may supply the note that all of the shofar passages are assembled in the Michael Sachs Machsor for Rosh Ha-Shanah, Berlin 1860, pp. 180-182.

<sup>489</sup> Reik, *op. cit.*, p. 188. The correct Talmudic references are Moed Katon 16a, San. 7b and Raschi to the latter passage.

<sup>490</sup> Reik, *op. cit.*, p. 184. To-day's shofar, being unornamented is, according to Cyrus Adler, more primitive than the shofar of the Mishnah.

<sup>491</sup> Reik, *op. cit.*, p. 240.

<sup>492</sup> *Ibid.*, p. 239.

<sup>493</sup> "Ein gutes Pendant dieses Vorganges bietet die Maennerweihe der Wilden, in der die Vertreter der Vatergenerationen in der Vermummung als Totemtiere die Juenglinge erschrecken und sich durch diese Gestalt den Gehorsam der Juenglinge erzwingen" (*ibid.*, p. 268). Reik reports (p. 242) how "bei den Minankabos von Sumatra wie oft bei den anderen Staemmen das Schwirholz aus dem Stirnbein eines Mannes, der wegen seiner Tapferkeit beruehmt war, angefertigt wird. Vom Stirnbein eines Mannes zu einem Widderhorn ist kein groesserer Abstand als von einem Anthropomorphen Gott zu dem alten Totemgott." From the totem sounds connected with the bull roarer various other ritual sounds employed at initiations were derived such as banging, flute tones (p. 243), roaring (p. 244), drumming and, as in Thrace, rattling. The Dionysian rhombus was a bull roarer. The bull roarer is an extensively used ritual object as well as toy (p. 238).

<sup>494</sup> *Ibid.*, pp. 241, 242.



the voice of the father is a threat of punishment for its misdeeds.<sup>495</sup>

Bad luck is said to result from the faulty blowing of the *Shofar*. Reik thinks that the inhibition to which faulty blowing is due has some relation to the patricidal tendency which provokes the father's retaliation.<sup>496</sup>

The mask worn by Moses is construed by Reik as a variation of the horn. The mask represents the skin of the totem. Meanwhile it is closely related to the horns attributed to Moses by the Vulgate and by Michaelangelo and to the dazzling rays derivative from horns. The wearing of the mask, we shall presently learn, is one of the several ways in which Moses identifies himself with Yahweh. Now the function of the mask is not to accommodate the onlookers as the text in Exodus says but to frighten. Children are alarmed at masks even though they know who is behind. The mask of Moses is thus also an instance of *pater* or *deus terrificans*.<sup>497</sup>

We have noticed the equation of the earth or the land and the mother (supra pp. 619, 637, 638). The circumstance that Moses is kept from entering the land of promise shows how he has been guilty of incestuous longings or approaches and how a vindictive father slays him in retaliation.<sup>498</sup>

Finally, the fish that swallows Jonah is suspected of being a variant of a totem god that eats his own offspring.<sup>499</sup> Modern psychiatry is conversant with the animal phobias of children and with children's fears of being bitten, gored or eaten.<sup>500</sup> We are

<sup>495</sup> *Ibid.*, p. 220.

<sup>496</sup> *Ibid.*, p. 222. May we not add that the ancient Hebrew teachers may have known something about unconscious inhibitions? A remarkable instance is the praying of R. Hanina ben Dosa (Ber. V, 5).

<sup>497</sup> Reik, *op. cit.*, p. 266. I once observed two boys competing with one another in an endurance test that was to determine which could keep silent for the longest period at a stretch. In the course of the ordeal the boys donned masks. There also appeared to be involved some masochistic self-infliction. This combination of silence (death?), mask (intimidation?) and masochism (sex?) strangely suggests the usual Freudian synthesis.

<sup>498</sup> Reik, *op. cit.*, p. 287.

<sup>499</sup> Karl Abraham, "Der Versöhnungstag," *Imago*, VI, 86.

<sup>500</sup> Reik, *Der Eigene und der Fremde Gott*, p. 204. Freud, "Totem und Tabu," pp. 117-122.

told that "an unconscious fear of castration is at the root of these infantile apprehensions,"<sup>501</sup> the animal being a substitute for the exasperated parent to the child as to the savage.<sup>502</sup>

#### B. HOSTILITY OF THE SON TOWARD THE FATHER

It is claimed that a totemistic vestige of the primeval patricide was, in ancient times, the slaying of the sacrificial animal. The patricide is thereby totemistically repeated.<sup>503</sup> Karl Abraham offers a similar surmise regarding the *Kappara* of Yom Kippur eve.<sup>504</sup> As fowl are often enumerated in the sacrificial code alongside of cattle and sheep, fowl can function totemistically in the place of cattle and sheep.<sup>505</sup> The *Kappara*, according to Abraham has a purpose identical with that which Reik ascribes to the *Kol Nidre*;<sup>506</sup> it is the symbolic repetition of the prehistoric or psychic patricide as a preface to atonement for the patricide.

Again, the blowing of the *Shofar* is declared by Reik to be an imitation of and therefore an identification with the father and to symbolize unconsciously a revolt against the father, an appropriation of his sexual organ and powers and a usurpation of his prerogatives.<sup>507</sup> Reik deems the Cabbalistic *Shofar* prayer, "O destroy Satan" to be decidedly in place because in the very act of blowing, Satan—that is, the anti-paternal and anti-divine trend—breaks forth.<sup>508</sup>

According to the minute analysis of Reik, Moses in some aboriginal conception was a vanquisher of Yahweh, the totem-father. Reik advances the following points:

<sup>501</sup> Reik, *Probleme der Religionspsychologie*, pp. 213, 216.

<sup>502</sup> *Ibid.*, p. 213. The pretended tearing up of the initiates in certain primitive initiations is analogous.

<sup>503</sup> *Ibid.*, p. 252.

<sup>504</sup> Karl Abraham, "Der Versöhnungstag, "Imago," VI, 82.

<sup>505</sup> *Ibid.*, p. 83. The author probably had in mind Leviticus, chapters 1. 5, 14.

<sup>506</sup> *Ibid.*, pp. 84, 89.

<sup>507</sup> Reik, *Probleme der Religionspsychologie*, pp. 214, 216.

<sup>508</sup> *Ibid.*, p. 223. This really applies not to a prayer but to the initials י"ט ו' ק"פ in the series of Psalm verses that precede the shofar blowing.

1. The Vulgate, Aquila and Michaelangelo take "*karan or panaw*" in Exod. 34.29 to mean that Moses had acquired horns.<sup>509</sup> The mask he wears is an abbreviated totem skin just as the horns are totem horns. The mask makes a deity of Moses.<sup>510</sup> By means of the mask he terrifies others in order to deter them from practicing on him who has now become a god the patricide or deicide which he himself has committed. Reik calls attention to something vaguely resembling an animal in the Michaelangelo statue.<sup>511</sup> This he takes as a subtle indication of an unconscious feeling that Moses is the son and the vanquisher of a father-god possessing animal form.<sup>512</sup>

2. The rage that Moses expends in shattering the calf at the foot of the mountain is a displacement for the rage with which he has shattered Yahweh higher up in the mountain.<sup>513</sup> The tablets of stone were demolished somewhere up on the mountain side and the tablets, we shall presently see, are but variants of the calf. Killing *for* the god may have been originally a killing *of* the god. The guilt imputed to the people is but a "displacement" for the guilt that originally attached to Moses.<sup>514</sup> The drinking of the ash-water by the people (Exod. 32.20) can be, thinks Reik, a variant of the ceremonial eating on the lower slope of Sinai in Chap. 24 and, as such, an occurrence in which the father-totem is eaten.

<sup>509</sup> *Ibid.*, p. 262. The incest intimation concerning Moses we noticed supra p. 674 in connection with his exclusion from the promised land.

<sup>510</sup> *Ibid.*, p. 265. Reik quotes Gressman, *Mose und seine Zeit*, pp. 151, 247 (it should be 247, 250). It is difficult to understand what Reik means when he says (p. 267), "Moses braucht dann im Verkehr mit diesem Gotte keine Maske, kein Tierfell, denn er entreisst es ihm ja und wurde selbst Gott." Does one lay aside one's trophies in the presence of the vanquished from whom they have been wrested? Reik would have been easier to understand had he said that Moses without the mask is a "displacement" for Yahweh deprived of the mask; the mask being the totem skin, the insignium of power. Reik is more intelligible when he says, "Moses der im Zelte zu Yahweh spricht ist eine spaetere Figur, da Moses selbst zu Yahweh geworden ist und so die Anwesenheit Yahwehs als eine doppelte erscheint" (p. 267).

<sup>511</sup> *Ibid.*, p. 260. The "Moses" is really half beast, half god (p. 263).

<sup>512</sup> *Ibid.*, p. 269.

<sup>513</sup> *Ibid.*, pp. 273, 274.

<sup>514</sup> *Ibid.*, p. 276.

It is true the calf mentioned in the text is a golden calf but the primitive mind does not discriminate between an original and a replica.<sup>515</sup>

The calf was originally not one animal but two animals as indicated by the plural *eleh* in verse 4b and also as suggested by the two bulls of Jeroboam in I Kings 12.<sup>516</sup>

Of the two animals at Sinai, one was a bull representing Yahweh the father and one a calf representing Moses the son.<sup>517</sup> Reik recalls Hosea's contemptuous application of the word "calf" to the bulls of Jeroboam.<sup>518</sup> Moses can be a calf as Christ can be a lamb.<sup>519</sup> Yahweh can be a bull even though elsewhere the ram appears to have been the Hebrew totem. One totem can supercede another as one tribe comes to dominate another or as, under changed conditions, new types of animals come to be bred.<sup>520</sup>

In Moses, the bull slayer, we have an analogy to the monster slayers, Siegfried, Hercules, Theseus, Dionysius, Orpheus, Attis, Mithra.<sup>521</sup>

3. The tablets of stone which Moses shatters are variants of the two animals or of the two statues of animals.<sup>522</sup>

<sup>515</sup> *Ibid.*, p. 273.

<sup>516</sup> *Ibid.*, p. 280.

<sup>517</sup> *Ibid.*, pp. 278, 280. He might also have quoted Ps. 106.20 where the animal worshipped is called a *shor*. Reik holds that Moses as calf and Moses as man is a splitting of personality with which psychoanalysis is highly familiar (p. 286).

<sup>518</sup> *Ibid.*, p. 271. The passages in Hosea are 8.5, 6; 10.5; 13.2.

<sup>519</sup> *Ibid.*, p. 284.

<sup>520</sup> *Ibid.*, p. 218, "Ob in diesem Stierkult der Einfluss eines sesshaften Volkes wie der Babylonier sichtbar wird oder eine selbststaendige Verzweigung einer ursemitischen Vorstellung vorliegt, welche letztere Hypothese mir wahrscheinlicher scheint, muss dahingestellt werden." Due to scarcity of water in Palestine, the Habiri, according to Stade and to Benziger, pastured only small cattle. Arabs do not breed large cattle. "Wahrscheinlich dass der Widder in der Domestikation des Kleinviehs vorangegangene Epoche die totemistische Gottheit der Juden war." Would not this make the ram totem earlier than the bull totem?

<sup>521</sup> *Ibid.*, p. 269.

<sup>522</sup> *Ibid.*, p. 293, p. 301. Reik might have cited the Talmudic statement that Moses, like various other notable characters, *hittiah debarim kelappe Ma'alalah* (Ber. 32a).

As the statues subject to destruction are sacred objects the fashioning of which was the duty of Aaron the priest, so are the two tablets sacred objects.<sup>523</sup>

The preservation of the tablets in the ark does not comport with the conception of them as vehicles of a law for public use.<sup>524</sup> The need of the hour was a journey god. Moses ascended Mt. Sinai presumably to secure such a god. The tablets which he obtained must therefore have represented such a god.<sup>525</sup> In the altar with its stones and its horns we have, Reik thinks, a composite of stone deity and animal deity.<sup>526</sup>

Reik maintains that the preparation of a second pair of tablets intimates a double sense for the tablets—as the psychoanalysts say of dreams, a “manifest” content and a “latent” one.<sup>527</sup> Reik believes that this duality of content is further evidenced by “the many contradictions and uncertainties of the text.”<sup>528</sup> The repeated shatterings of the father-god, first in the tablets and then in the calf, suggest to Reik the idea of the repeated killings of the many headed Hydra or of the Egyptian demon Apepi.<sup>529</sup>

Archaeologically speaking, there may once have been a Yahweh father cult superseded by a Moses son cult.<sup>530</sup> “When sometimes Moses and sometimes Yahweh seems to be the writer of the tablets, the vacillation between a father god and a son god is still perceptible.”<sup>531</sup> The very word “Moses,” Reik informs us, comes from the Egyptian, “*Mesu*,” a child—a word appearing in such familiar names as “Thutmosis” and “Ramses.”<sup>532</sup>

The distortions and reconstructions of the narratives that Reik has to assume will, he thinks, lose their appearance of enormity if one reflects upon the corresponding dislocations in the childhood memories of individuals.<sup>533</sup>

<sup>523</sup> Reik, *op. cit.*, pp. 276, 294, 295.

<sup>524</sup> *Ibid.*, p. 298. Reik is supported by Gressmann, *op. cit.*, p. 189.

<sup>525</sup> Reik, p. 298. Reik (p. 297) also quotes the view of Gressman (“*Mose und Seine Zeit*,” p. 186) that the tablets in the Exodus story are an anachronism.

<sup>526</sup> Reik, *op. cit.*, p. 310.

<sup>527</sup> *Ibid.*, p. 297.

<sup>528</sup> *Ibid.*, p. 305.

<sup>529</sup> *Ibid.*, pp. 290, 292.

<sup>530</sup> *Ibid.*, p. 282.

<sup>531</sup> *Ibid.*, p. 305.

<sup>532</sup> *Ibid.*, p. 278.

<sup>533</sup> *Ibid.*, p. 299.



Another patricidal insurrectionary unearthed by Reik is Jubal in Gen. 4.21, "the father of such as handle the harp and the pipe." Reik conjectures the substratum of this notice to have been an account of a son's overthrow of his father totemized as a ram.<sup>534</sup> The name "Jubal" resembling the *yobel* of Exod. 19.13 means "ram."<sup>535</sup> Jubal, being an inventor, must have been like those other inventors, Midas who was an ass, Marsyas who was a goat, Orpheus who was a fox and Dionysius who was a bull.<sup>536</sup> Again, as an inventor Jubal is an insurrectionary. In primitive myths inventors are commonly sons that rebel.<sup>537</sup> Australian myths in particular associate the invention of musical instruments with some father's overthrow by his son.<sup>538</sup>

Underlying it all, according to Reik, is the origin of music in the imitation of a totem animal or by imitating the voice of the envied father afterward incarnated in the totem animal or by imitating the groans of the assaulted and dying father, imitation being of course accession to the coveted powers. As Moses identifies himself with the father by acquiring the father's horns, Jubal identifies himself with the father by simulating the father's sounds.<sup>539</sup> Borrowing some support from an oriental legend that Jubal was a Kenite, Reik surmises a connection between the Jubal-Jabal brother relation and that of Cain and Abel whose significance as an example of the Oedipus conflict has already been brought to our attention<sup>540</sup> (supra pp. 638, 649).

Langer alleges that in some Jewish localities meat is on Shabu'ot eaten soon after cheese. This he regards as an analogue to those totem feasts in which taboos of totem eating are deliberately violated.<sup>541</sup>

<sup>534</sup> *Ibid.*, p. 245.

<sup>535</sup> Reik does not overlook the *yabla* of Rosh Ha-Shanah III, 2.

<sup>536</sup> *Ibid.*, p. 234.

<sup>537</sup> Examples are Orpheus, Osiris, Attis. Reik might have added Prometheus, inventor of the use of fire.

<sup>538</sup> *Ibid.*, p. 247.

<sup>539</sup> *Ibid.*, p. 288. The very fact that the Bible does not ascribe the origin of music to a deity indicates, according to Reik, that there once was a deity whose totemic character had to be concealed when higher conceptions developed (p. 230).

<sup>540</sup> *Ibid.*, pp. 179, 180.

<sup>541</sup> "Die juedische Gebetriemen," *Imago*, XVI, 472.



Finally Reik holds that the ram of Gen. 22 was a totem father-god and that Isaac was understood to deserve immolation for the slaying of this god.<sup>542</sup>

## X. TOTEMISM—CONCILIATION BETWEEN FATHER AND SON

### A. THE FATHER'S FRIENDLINESS TOWARD THE SON

Only a few of the Jewish stories and observances animated by the sense of the father's friendliness toward the son fall within the totemistic group.

Frieda Fromm-Reichmann sees in the prohibition of seething the calf in its mother's milk a restraint upon paternal truculence.<sup>543</sup> Her psychoanalytic amplification of the law is approximately: "Do not, suspecting thy son of incestuous relations with his mother on whose milk he has been nourished, visit upon him the punishment of devouring him as thou wouldst something cooked."

Although the blowing of the *Shofar* inspires speechless awe, there is subsequent to the blowing a sense of relief<sup>544</sup> not unlike the joys following the Adonis festival in ancient Antioch when the suspense would be over and the forgiveness of sins assured.<sup>545</sup> So Reik affirms. Allied to this are the bounties of the Rosh Ha-Shanah dinner enjoined already in Nehemiah.<sup>546</sup> Reik speaks of the red apples eaten in mediaeval France, of the grapes eaten in Provence, of the Rosh Ha-Shanah figs and the calf's head and, as reported by Rabbi Jacob Moeln in the fourteenth century, the apples, honey and venison head.<sup>547</sup>

At the close of Atonement Day the deity now conciliated imparts his benign blessing to his children. We shall soon hear that the *ta'lethim* in which the Aaronides wrap themselves when pronouncing the benediction are but modifications of the totem skin by wrapping in which priests of primitive cults would become

<sup>542</sup> *Ibid.*, p. 237.

<sup>543</sup> Frieda Fromm-Reichmann, "Das Juedische Speiseritual," *Imago*, XIII, 243.

<sup>544</sup> Reik, *Probleme der Religionspsychologie*, pp. 221, 225.

<sup>545</sup> *Ibid.*, p. 226.

<sup>546</sup> Neh. 8.10.

<sup>547</sup> Reik, *op. cit.*, p. 226.

like their totem;<sup>548</sup> while the spread fingers of the Aaronides' hands, so Karl Abraham would have us understand, simulate the totem's split paws or claws.<sup>549</sup>

The mask of Moses whose primary function was to terrify as a father or a deity terrifies becomes in the text of Exodus a device for human accommodation and protection.<sup>550</sup> Like the bull roarer the *Shofar* which sometimes means fear and death, at other times, means protection,<sup>551</sup> succor and finally resurrection,<sup>552</sup> whence its depiction on catacombs and tombs.<sup>553</sup>

#### B. THE SON'S FRIENDLINESS TOWARD THE FATHER

Numerous are the properties of religion displaying totemistically the genial factors in the son's attitude toward the father.

The totem, that is the re-incarnated ancestor is extensively an object of worship. Reik enumerates Apis, Ptohm, Chum, Anubis, Marduk, Adad, Elul, the moon god Sinu, Dionysius, Poseidon, Zeus, Ammon, Pan, Bacchus, Baal and the golden bulls of Jeroboam.<sup>554</sup> While the account in Exodus represents the calf worship as sinful, the original story is surmised to have placed the sin not in the worship but in the demolition.<sup>555</sup> The tablets of the Decalogue characterized by Reik as a stone god and as a doublet of the calf are to this day an object of reverence and adoration.<sup>556</sup>

In the act of pouring blood upon the altar, Reik sees a feeding of the totem deity just as we have found the shielding of the altar from the impacts of iron to constitute a protecting of the

<sup>548</sup> Karl Abraham, "Der Versöhnungstag," *Imago*, VI, 87, also Frieda-Fromm-Reichmann, "Das Juedische Speiseritual," *Imago*, XIII, 238.

<sup>549</sup> Karl Abraham, *op. cit.*, p. 88.

<sup>550</sup> Reik, *Probleme der Religionspsychologie*, p. 266.

<sup>551</sup> *Ibid.*, p. 242. Something similar, he says, is true of the bull roarer of the Unmatgans.

<sup>552</sup> *Ibid.*, p. 225, just as the offending sons, Orpheus, Marsyas, and Dionysius are, after being torn to pieces, mourned and then resurrected and worshipped (p. 246).

<sup>553</sup> *Ibid.*, p. 224.

<sup>554</sup> *Ibid.*, p. 207. The bulls of Jeroboam in I Kings 12.28.

<sup>555</sup> *Ibid.*, p. 303.

<sup>556</sup> *Ibid.*, pp. 300, 301.

deity (supra p. 665). The altar having horns is equated with the totem having horns, in the manner of a child who, putting on a soldier hat, poses as a soldier.<sup>557</sup>

Again, the totem deity is honored in the requirement that the sacrifice be without blemish. The *Shofar* must similarly be without blemish.<sup>558</sup> The deity must not be caricatured. Reik is reminded of the Minangkabos of Sumatra and other tribes among whom the bull roarer is made from the skull of a man distinguished for bravery.<sup>559</sup>

Related to this is the entire Biblical recasting of the ancient patricide stories in order to give a more exalted conception both of God and of man.<sup>560</sup> The hostility is thus diverted from the god to the golden calf, his "split-off."<sup>561</sup> The despised idol becomes in this way the ambivalent of the thunder God majestic and exalted. The abhorrence which Moses feels for the calf worship can also mean his abhorrence for the Moses worship which he desires unconsciously.<sup>562</sup> Reik calls attention to Bible passages like Isa. 34.6; Jer. 46.10; Zeph. 1.7,<sup>563</sup> as Freud does to myths in which the deity himself is the sacrificiant—the worshiper being that loathe to commit the patricide even histrionically.<sup>564</sup>

Various sacrificial rituals involve demonstrations of mourning over the slain animal.<sup>565</sup> The antics of the Baal priests in I Kings 18 are melancholy. We are informed that sacrificial slaughters would be attended by various types of apology and expiation.<sup>566</sup>

Further tokens of filial regard are the prohibitions of the symbolic incest already noted—that of "taking" the mother bird (supra p. 672) and that of seething the calf in its mother's milk<sup>567</sup> (supra pp. 672, 680). The latter has been expanded into the Jewish

<sup>557</sup> *Ibid.*, p. 310.

<sup>558</sup> *Ibid.*, p. 215.

<sup>559</sup> *Ibid.*, p. 241.

<sup>560</sup> *Ibid.*, pp. 281, 305.

<sup>561</sup> *Ibid.*, p. 290.

<sup>562</sup> *Ibid.*, p. 304.

<sup>563</sup> "Die Bedeutung des Schweigens," *Imago*, V, 355.

<sup>564</sup> *Totem und Tabu*, p. 139.

<sup>565</sup> Reik, *Probleme der Religionspsychologie*, pp. 253, 25v.

<sup>566</sup> Frieda Fromm-Reichmann, "Das Juedische Speiseritual," *Imago*, XIII, 237. Her reference is to "*Totem und Tabu*," p. 161 (in Vol. X of the *Gesammelte Schriften*).

<sup>567</sup> Langer in "Die juedische Gebetriemen," *Imago*, XVI, 441, agrees with Frieda Fromm-Reichmann that the prohibition of seething the calf in its mother's milk is a restraint upon Oedipus tendencies.

law forbidding the combination of milk and meat in the diet. The interval required between them rests upon the supposition that one's identification with the calf lasts only so long as the meat is in one's body.<sup>568</sup> The punctiliousness attaching to the separation of meat and milk—the different dishes, pans, table cloths etc.—is viewed by Frieda Fromm-Reichmann as a familiar neurotic symptom.<sup>569</sup>

Another demonstration of regard for the father is, according to Reik, the prohibition of image making. Damage to a person's simulacrum was believed to entail damage to the person himself.<sup>570</sup> Yahweh was thus shielded against any patricidal outbursts such as were inflicted on the Egyptian Apepi statue.<sup>571</sup> Christianity which discarded this prohibition substituted for the hegemony of the father-god that of the rival son-god.

The prohibition of blood eating carries, according to Frieda Fromm-Reichmann, the same intent.<sup>572</sup> The blood is the life. To spare the blood is to spare the life. She suggests, as we saw, that this prohibition among the Hebrews accounts for the practice of eating animals of the totem type only, while among other peoples the totem was precisely the animal tabooed.<sup>573</sup> Frieda Fromm-Reichmann would add to this the practice of refraining from the use of food prepared by non-Jews. The hostile alien might cause the Jew to revert to certain degrees of totem eating that the Jew has abandoned.<sup>574</sup> Reik thinks that abstinence from eating nuts on the day the *Shofar* is blown also goes back to a resolve to desist from eating the father. He instances the *gematria* by which "egoz," "nut" is equated with "hef," "sin" and the theory that the flow of saliva stimulated by nuts diverts the worshiper's attention from his prayers. At the root of it all, it is patricidal urges undergoing repression.<sup>575</sup>

<sup>568</sup> Frieda Fromm-Reichmann, *op. cit.*, p. 242.

<sup>569</sup> *Ibid.*, p. 241.

<sup>570</sup> Reik, *Probleme der Religionspsychologie*, p. 290.

<sup>571</sup> *Ibid.*, pp. 289, 291.

<sup>572</sup> Frieda Fromm-Reichmann, *ibid.*

<sup>573</sup> *Ibid.*, p. 238 and supra p. 671.

<sup>574</sup> *Ibid.*, p. 244. The passage is difficult to understand but this is what it seems to mean.

<sup>575</sup> Reik, *op. cit.*, p. 266. Reik is reminded (p. 247) of the abolition of cannibalism attributed to Orpheus. On page 622 supra saliva is mentioned as a sperm symbol.

We have noticed how the quelling of the desire to slay and devour the father and to cohabit with the mother is signified on Atonement Day by abstinence from food and from sexual intercourse (*supra* p. 661). Ehrich Fromm aligns with this the prohibition of sandal wearing on Atonement Day. Sandals, being made of leather, can constitute an identification with the father-totem—that identification so ominously associated with patricide and usurpation.<sup>576</sup>

Inasmuch as blowing the *Shofar* involves such wicked identification, the use of the *Shofar* has been restricted to the month of Ellul and to specific ritual occasions.<sup>577</sup> Once upon a time the occasions for its use—alarms, announcements, festivals—were numerous.<sup>578</sup> Reik sees here an analogy with certain neurotic symptoms in which a given reaction which is aroused in the patient by persons and objects more and more removed from the prime cause of the reaction becomes, in the process of cure, gradually detached from the secondary persons and objects and tends to revert to its original limits.<sup>579</sup> A point is made about the exclusion of the bull from the group of animals whose horns can be used for *Shofars*.<sup>580</sup> The bull rather than the ram may have been the original Hebrew totem.<sup>581</sup> The real totem is thus spared the patricidal aggression.

<sup>576</sup> Ehrich Fromm, "Der Sabbath," *Imago*, XIII, 232. Ludwig Levy (*Monatschrift*, Vol. 62, p. 181) interprets differently the removal of the shoes on Atonement Day and on occasions of mourning. The shoe being a symbol of power and possession, its removal expresses subjection and surrender. This however need not exclude the interpretation of Fromm given in the text. Psychoanalysis is ever positing "over-determination." An object or an act which can signify one thing in a given connection can, in another connection, have additional signification. This point was broached *supra* note 10

<sup>577</sup> Reik, *Probleme der Religionspsychologie*, pp. 186, 188, 219.

<sup>578</sup> *Supra* pp. 672, 673. The references are II Sam. 6.15; 15.10; Isa. 8.1; Jer. 4.19–21; Ezek. 33.1–6; Amos 3.6; Job 39.24. Ta'anit 16b, Mo'ed Katan 16b, 27b, Sanhedrin 7b, Oraḥ Hayyim 576, 1.

<sup>579</sup> Reik, *op. cit.*, p. 220.

<sup>580</sup> *Ibid.*, p. 184. The reference is to Rosh Ha-Shanah III, 2 and to Oraḥ Hayyim 596. However the texts say *parah* not *par*.

<sup>581</sup> Reik, *op. cit.*, p. 231. This reason might conceivably obtain alongside of the other reason (p. 219) that when bull worship became offensive, the bull-horn *shofar* was tabooed. Still the bull was an earlier totem that the ram could not entirely efface (*supra* pp. 668, 669, 679, 680).



The *Shofar* bellowing like an animal undergoing slaughter<sup>582</sup> acquired the function of bringing the primeval patricide to consciousness and thus awakening remorse for one's sins.<sup>583</sup> Thirty times over it warns against the anti-paternal impulses and admonishes their subjugation<sup>584</sup> (supra p. 673). The resurrection which the *Shofar* announces is in store only for those in whom the patricidal craving has been stilled.<sup>585</sup> The blowing of the *Shofar* throughout the month of Ellul has been explained as a reminder of the Holy Days approaching. The implication is that there is a possibility of forgetting and in psychoanalysis, forgetting and repressing go together.<sup>586</sup> As we have already observed, periods of solemnity and restraint are not periods in which the likelihood of outbreaks is necessarily diminished (supra p. 652).

The Satan who is repudiated in connection with the *Shofar* blowing is the worshiper's own unfilial proclivity.<sup>587</sup> The *Shofar* whose use was primarily a triumph of Satan, that is, of the son's hatred of the father is thus turned against Satan. "O destroy Satan," as we have recalled (supra p. 675), is one of the accessory prayers.<sup>588</sup> A mediaeval version of the reason for blowing the *Shofar* throughout the month of Ellul is that Satan has to be deceived regarding the date of Rosh Ha-Shanah.<sup>589</sup> And Satan is the chief of demons. They who trespass upon the father's

<sup>582</sup> *Ibid.*, p. 213. Reik also observes (p. 186) how Isa. 58.1ff. connects the *shofar* with sin.

<sup>583</sup> Reik says (pp. 217, 218) that the ram's horn does not give the sound of the ram's voice but that of an ox bellowing with anxiety.

<sup>584</sup> *Ibid.*, p. 221. "Das Zeremoniel hat wie die Symptome der Zwangneurose den Charakter des Schutzes gegen eine endopsychisch wahrgenommene Versuchung" (p. 220).

<sup>585</sup> *Ibid.*, p. 224.

<sup>586</sup> *Ibid.*, p. 228.

<sup>587</sup> *Ibid.*, p. 223. Reik (p. 209) refers to the Hindu invocation that Brahmanaspati use his horns against the demon Aryi. The war god Indra is pictured as butting nations with his horns. My colleague, Dr. Lauterbach, calls attention to the fact that according to the interpretations of the Lurianic School the rooster of the Kappara as well as the scapegoat of Lev. 16 is a representative of demons or of Satan. The slaughtering is understood to effect a weakening of the demoniacal or Satanic power.

<sup>588</sup> Reik, *op. cit.*, and infra p. 697.

<sup>589</sup> *Ibid.*, p. 228.



prerogatives and appropriate his horns are not unlike those horned creatures, the demons whose worship is so emphatically forbidden.<sup>590</sup>

To the notable expiations already considered (supra p. 663), we may now add those involving totemism. Moses, the totem-vanquisher not only offers himself in expiation;<sup>591</sup> if we can agree with Reik that the calf which Moses shatters is not only Yahweh the father but also Moses the son, Moses actually performs the expiation,<sup>592</sup> Moses the expiatory calf being thus on a level with Christ the expiatory lamb. The hand grasping the beard in the Michaelangelo statue betokens, according to Reik, a masochistic rage directed against the self.<sup>593</sup>

By various tokens, the entire Jewish nation accepted the guilt of Moses as its own guilt.<sup>594</sup> Particularly is a symbolic identification of the people with the vicarious victim perceived by Reik in the Atonement ritual where the blood of the people's sin offering is mingled with the blood of the priest's sin offering.<sup>595</sup> Reik also predicates an identification of the worshiper with the scape-goat.<sup>596</sup> In the *Kappara* ritual, the fowl that is slain is expressly asserted to be the equivalent of the person by whom and for whom it is utilized.<sup>597</sup>

Isaac is similarly in peril of immolation because of the slain totem, the ram. Such is, in Reik's opinion, the "latent" sense beneath the innumerable "displacements" in Gen. Chap. 22.<sup>598</sup>

<sup>590</sup> *Ibid.*, p. 209. On demon worship, Lev. 17.7; Isa. 13.4 (?), II Chron. 11.10 (?); Deut. 12.31, 32.17; Ps. 106.37; II Chron. 11.15.

<sup>591</sup> Exod. 32.32.

<sup>592</sup> Reik, *op. cit.*, p. 285 and supra p. 677.

<sup>593</sup> Reik, *op. cit.*, p. 305.

<sup>594</sup> *Ibid.*, p. 202.

<sup>595</sup> *Ibid.*, p. 227. The passage is Lev. 16.18. Reik likens this to an Australian initiation rite in which there is a letting of the blood of the participants old and young or in which the youth, just circumcised, touches the head of an elder with a twig dipped in the circumcision blood.

<sup>596</sup> Reik, *Der Eigene und der Fremde Gott*, p. 125 and supra pp. 633, 634 regarding Narcissism and regarding identification.

<sup>597</sup> Karl Abraham, "Der Versoehnungstag," *Imago*, VI, 83.

<sup>598</sup> Reik, *Probleme der Religionspsychologie*, p. 237. "Wie Isaac wuerden alle Mitglieder der Gemeinde verdienen, wegen ihrer feindseligen, unbewussten Gesinnung gegen den Vater getoetet zu werden, da sie selbst ihn ja kraft der

As a final act of friendliness toward the father, Reik instances the restoration of the Decalogue stones. Thus is the slain father symbolically resurrected.<sup>599</sup>

Finally, of bearing on the son's friendliness toward the father is Langer's psychoanalytic interpretation of the phylacteries.<sup>600</sup> Langer sees in the act of winding the phylacteries about arm and head a symbolic self-castration, restrictive of incestuous aggressions upon paternal sex prerogatives. Langer reaches this conclusion by discovering in the phylactery usage male sex symbols, female sex symbols, cohabitation symbols, attitudes of rebellion and attitudes of self constriction.

### A. MALE SEX SYMBOLS

The following are the masculine sex implications noted by Langer.

1. The leather of which the straps are made has a sexual implication. Its smell is sexually stimulating; hence the eagerness of the boy at puberty to put on the *Tefillim*.<sup>601</sup> Langer furnishes examples from Chinese, Greeks and other peoples in which leather carries a sexual import.<sup>602</sup>

2. Straps resemble snakes. Langer devotes a number of pages to the phallic significance of snakes in various parts of the world.<sup>603</sup> He recalls, among other things, how in ancient Rome, the straps of the *luperci* were supposed to induce pregnancy in the women whom they would strike.<sup>604</sup> He quotes Ludwig Blau as saying in "*Studien zum althebraeischen Buchwesen*" that there have been Torah rolls made of snake skin.

3. A passage in Sab. 108a debates whether *Tefillim* parchments may be made of fish skins. In Ket. 5a, the fish is a sex symbol. It is also a sex symbol among Babylonians, Arabs and others. It resembles the well known phallic snake. The Talmud itself says that a certain uncleanness attaches to the fish because of the snake which seduced Eve.

Allmacht der Gedanken getoetet haben." The totemistic slaying is presumably a supplementation of the "revenant" slaying which was mentioned supra p. 649.

<sup>599</sup> *Ibid.*, p. 305.

<sup>600</sup> "Die juedische Gebetriemen," *Imago*, XVI, 1930, 435-485.

<sup>601</sup> *Ibid.*, p. 439.

<sup>602</sup> *Ibid.*, p. 440.

<sup>603</sup> *Ibid.*, pp. 483-485.

<sup>604</sup> *Ibid.*, pp. 440, 441.

4. Various scrotum resemblances characterize the phylacteries. "Die von drei Seiten um den breiten Rand der Kapselbasis umgewickelten Riemen erinnern an das Skrotum, die beiden ueberragenden Enden der oben zusammengefalteten Schlinge stellen die Testikel dar. Das hohe, vordringende Haeuschen in der Mitte waere dementsprechend der Penis in statu erectionis."<sup>605</sup> Langer holds that the bag in which the phylacteries are kept also resembles the scrotum.<sup>606</sup> He recalls that in certain regions "scrotum" is a vulgarism for a *Tefillim* bag and that certain Jews in Prague had the custom of folding the *Tefillim* into the bag in a manner resembling the position of the sex organ in the scrotum.

5. Together with the eyes, the head piece of the *Tefillim* forms a triangle and the triangle is an erotic symbol.<sup>607</sup> The eyes themselves, as in the Indra myth (supra p. 644) have a phallic significance.<sup>608</sup> Clinically, eyes have meant testicles.<sup>609</sup> A progressive pushing up placed the head piece higher than the eyes.<sup>610</sup>

6. A legend in Sab. 49a tells how, in a certain emergency, head *Tefillim* changed into dove's wings.<sup>611</sup> Langer further recalls that for *Tefillim*, *Mezuzah* and Torah rolls bird skin is preferred<sup>612</sup> and that there is resemblance to a bird in the folded *Tefillim*.<sup>613</sup> But birds also have phallic associations. They have such in India, Arabia and elsewhere. In Greece, doves particularly are something phallic. Referring to the word *Kenafayim* in the *Sefer Emet* of Menahem Azariah of Fano, Langer asserts that in the Kabbala, the phallic principle (*Yesod*) is called the "winged."<sup>614</sup>

<sup>605</sup> *Ibid.*, p. 453.

<sup>606</sup> *Ibid.*, p. 454.

<sup>607</sup> *Ibid.*, p. 450. He refers to L. Levy "*Simsonsage*," p. 13 and to R. Kleinpauls, *Sprueche ohne Worte*, p. 376.

<sup>608</sup> Langer, *op. cit.*, p. 449.

<sup>609</sup> *Ibid.*, p. 459. He refers to Stephen Helles in *Int. Zeitsch. f. Psychan.* IX, p. 72.

<sup>610</sup> Langer, *op. cit.*, p. 448.

<sup>611</sup> *Ibid.*, p. 452.

<sup>612</sup> *Ibid.*, p. 455.

<sup>613</sup> *Ibid.*, p. 453.

<sup>614</sup> *Ibid.*, p. 455.

7. The finger has a phallic bearing. The Hebrew word *Ammah* can mean both finger and sex organ. Langer adduces, for the phallic significance of the finger, myths from Egyptians, Romans and South American Indians.<sup>615</sup> A phallic significance likewise attaches to the hand.<sup>616</sup>

8. The three windings of the strap around the third finger give the phallic number "three." Langer surmises that certain oaths expressed by lifting three fingers are allied to oaths voiced by touching the sex organ as in Gen. 24.2-4 and 47.29. He claims that there are vestiges of phallic oaths in the Kabala and even in the folk custom of touching the noses of children to ascertain whether they are telling the truth.<sup>616</sup> He further recalls that the three blowings of the *Shofar* have been liturgically equated with hips and sex organ.<sup>616</sup>

9. Phallic implications reside in various analogues of the head *Tefillim* such as the *Qorḥah* of Deut. 14.1 and the African *Totafot*.<sup>617</sup> The Talmud in fact (Meg. 34b) imputes an African origin to the word "*Totafot*."

10. Certain oriental and ancient hand pieces of the phylacteries are cylindrical, that is, phallus shaped.

11. The hand piece has to be covered modestly—like the genitals.

12. Touching *Tefillim* "defiles" (Yadayim III, 3 and Zabim V, 12) like touching sexual parts.

13. Ber. 23a tells how a harlot once claimed to have received a pair of *Tefillim* as her compensation—like the staff of Judah in Gen. 38.18.<sup>618</sup>

## B. FEMALE SEX SYMBOLS

These appear as follows:

1. Meg. 24b asserts that round or nut shaped head pieces are dangerous.<sup>619</sup> The nut, according to Langer, is the symbol of the mother's body. In Cant. 6.11, the nut is connected with such a female genital symbol as the pomegranate. In Midrash

<sup>615</sup> *Ibid.*, p. 462.

<sup>617</sup> *Ibid.*, pp. 444, 445.

<sup>618</sup> *Ibid.*, p. 458.

<sup>616</sup> *Ibid.*, p. 463.

<sup>619</sup> *Ibid.*, p. 446.

Rabba Shir 6, the nut is the symbol of the evil inclination. In Niddah 31a the foetus is compared to a nut. Nuts may not be eaten between Rosh Ha-Shanah and Sukkot allegedly because of the *gematria* of *Egoz* which, being 17, gives by the addition of the unity symbol 1, the number 18 and 18 is also the *gematria* of *Heṭ*, sin.<sup>620</sup>

2. The cubic box is a female sex symbol.<sup>621</sup> It is a house and house we have seen (supra note 114) means woman. Langer refers to the familiar passage in Yoma 2a on Lev. 16.11 and to Meg. 13b on Esther 2.7.

3. We have already noticed the construction of a triangle in the wearing of the head *Tefillim*. Langer informs us that the triangle stands for the female genitals among Greeks, Hindus and Sumerians.<sup>622</sup>

### C. COMBINED MALE AND FEMALE FACTORS

Various features of the *Tefillim* represent the male and female sex factors in combination i.e. in a symbolized cohabitation:

1. As already noted, the cubic box figures both as a male and as a female sex symbol. Langer cites Chinese and Melanesean parallels.<sup>623</sup>

2. The eye which we have already found to be a male sex symbol is also a vulva symbol.<sup>624</sup> In Ber. 66b, a dream of eyes meeting is interpreted as signifying cohabitation with one's sister.

3. The triangle also has a bi-sexual meaning. The ecclesiastical symbol of an eye within a triangle is said by Langer to mean *coitus*.<sup>625</sup> The triangle stands for the male and also for the female sex organ among Greeks, Hindus and Sumerians. The triangle represents the union of male and female among Babylonians, Etruscans and South American Indians. Langer attributes a similar implication to the shield of David and to those triangular arrangements, mentioned in Men. 31b, of the letters on the *Mezuzah*, arrangements called respectively *Ḳubbah* (something feminine) and *Zanab* (something masculine).<sup>626</sup>

<sup>620</sup> *Ibid.*, p. 448.

<sup>621</sup> *Ibid.*, p. 449.

<sup>622</sup> *Ibid.*, p. 459.

<sup>623</sup> *Ibid.*, p. 451.

<sup>624</sup> He refers to Levy, *Simsonsage* p. 11.

<sup>625</sup> Langer, *op. cit.*, p. 460.

<sup>626</sup> His "Tuerpfostenrolle," *Imago*, XIV, p. 467. Supra p. 622.

4. A bi-sexual significance adheres likewise to the number three.<sup>627</sup> The three windings of the *Tefillim* strap around the finger suggest the wedding ring<sup>628</sup> or the three-fold circling of the bridegroom by the bride.<sup>629</sup> The passage from Hosea recited while donning the *Tefillim* speaks of betrothal—*erastik li le'olam*. In this passage also occurs the word *yada'at* whose sexual implication has already been treated by L. Levy (supra p. 615). Kid. 30b says that in any individual's procreation three are involved—the father, the mother, the Deity. Langer quotes a Hindu proverb to similar effect. He then quotes F. Alexander<sup>630</sup> and S. H. Graber<sup>631</sup> as holding that the number three schematizes the attachment to the I, to the mother (or wife) and to the father (or super-ego). Karl Abraham conjectures that it represents the oral, the anal and the uro-genital zones.<sup>632</sup> Langer goes so far as to relate to this the tri-literal structure of Hebrew roots.

5. Langer also holds that there is a death and hence sex meaning in the number seven of the seven fold winding of the *Tefillim* around the arm.<sup>633</sup>

6. Finally Langer provides numerous examples from the Kabbala and from liturgic pieces influenced by the Kabbala where again *Tefillim* are invested with the erotic.<sup>634</sup>

#### D. ANTI-PATERNAL ATTITUDES

Langer's contention that attitudes of aggression upon the father underlie the wearing of *Tefillim* is based on the following considerations:

1. With Frieda Fromm-Reichmann (infra p. 695) he agrees that putting on the *Tefillim* signifies identification with the totem. This is additionally intimated in the Talmudic idea that God Himself wears *Tefillim*.<sup>635</sup>

<sup>627</sup> Langer, "Die juedische Gebetriemen," *Imago*, XVI, p. 460.

<sup>628</sup> *Ibid.*, p. 461.

<sup>629</sup> *Ibid.*, p. 462.

<sup>630</sup> *Ibid.*, p. 461. The reference is to "Der biologischer Sinn psychischer Vorgaenge" *Imago*, IX, 35.

<sup>631</sup> "Ueber Regression und Dreizahl," *Imago*, IX, 476.

<sup>632</sup> *Imago*, IX, 122.

<sup>633</sup> Langer *op. cit.*, p. 462.

<sup>634</sup> *Ibid.*, pp. 464-466.

<sup>635</sup> *Ibid.*, p. 441.



2. When assuming the *Tefillim* the boy becomes ritually the equal of his father.

3. A paternal protest is concealed in the compunction about wearing the *Tefillim* in moments of flatulence. Flatulence is said in psychoanalysis to voice a protest against the physician or against the father.<sup>636</sup>

4. While the *Tefillim* may be removed in the presence of the father, they may not be removed in the presence of the teacher. The person to be respected, says Langer, is the father's extended *imago*, the *Urvater*, the King.

### E. SELF-MUTILATION

The self-castration or self-mutilation factors in phylactery wearing reside in the following aspects:

1. Speaking of the double significance of the *Tefillim* cubes, Langer refers to his article on the "*Tuerpfostenrolle*" where he tells of the feminization or castration of masculine objects<sup>637</sup> (supra p. 621). He brings additional examples from Egyptian, Jewish, African, Indian and other usages.<sup>638</sup>

2. Leather in mythology has an underworld significance and this in turn suggests death. Death in its turn suggests desexualization.

3. Through binding, masochistic tendencies are gratified. Algolagniacs have been known to fetter themselves with gloves and with head bands.<sup>639</sup> Binding of the "weaker" is thus symbolic of self-castration.<sup>640</sup> The binding of the hand or of the finger—phallic tokens—means obviously the reduction of the phallic power.<sup>641</sup>

4. Langer quotes Marie Bonaparte<sup>642</sup> to the effect that the horn—as we saw, the head piece of the phylacteries represents a horn (infra p. 696)—signifies a genital that has been detached.

<sup>636</sup> *Ibid.*, p. 467. Reference is made to Ferenczi in *Int. Zeitschrift fuer Psychan.* Bd. I, S. 38ff.

<sup>637</sup> *Imago*, XIV, 457-468.

<sup>638</sup> "Die juedische Gebetriemen" *Imago*, XVI, 550.

<sup>639</sup> *Ibid.*, p. 441.

<sup>640</sup> *Ibid.*, p. 439.

<sup>641</sup> *Ibid.*, p. 463.

<sup>642</sup> "Kopftrophæen" *Imago*, XIV, 1928.

## XI. TOTEMISM—AMALGAMATIONS

There now remain to be considered those totemistic manifestations in which one act combines two or more of the tendencies which we have been considering separately. The act of ritual eating, for instance, whether it be that of the totem,<sup>643</sup> the *Kappara*<sup>644</sup> or the *Eucharist*,<sup>645</sup> can amalgamate the hostile act of devouring the father with four distinct acts of friendliness toward the father, namely:

1. That of admiring identification.<sup>646</sup>
2. That of a punitive devouring of an expiatory victim.
3. That of a penitential self-identification with the expiatory victim.
4. And finally, that of obedience to the father's commands.

The conception of eating as identification is said to be substantiated by myths, dreams and neuroses.<sup>647</sup> Reik instances an Abyssinian legend of a king who, by swallowing a worm, acquired an education in reading, writing, music and statesmanship.<sup>648</sup>

The drinking of the water containing the ashes of the golden calf signifies, according to Reik, not only the devouring of the father but also the self-identification of the people with their expiatory victim, Moses the calf, son of Yahweh the bull; just as the eating of the eucharist constitutes for the Christians a self-identification with their vicariate, Christ.<sup>649</sup>

Again, the eating of the sacrificial animal is not merely the symbolic eating of the father. The act, being represented as one divinely commanded, becomes also an expression of submission to the father.<sup>650</sup> Reik sees a condensation of this in the Gospel of John where Jesus, representing the father, hands a morsel of bread to Judas (the murderous son) and commands him to eat.<sup>651</sup>

<sup>643</sup> *Ibid.*, p. 252.

<sup>644</sup> Karl Abraham, "Der Versöhnungstag," *Imago*, VI, 82.

<sup>645</sup> Reik, *Der Eigene und der Fremde Gott*, p. 127.

<sup>646</sup> Reik, *Probleme der Religionspsychologie* p. 212.

<sup>647</sup> Frieda Fromm-Reichmann, "Das Speiseritual," *Imago*, XIII, 241.

<sup>648</sup> Reik, *op. cit.*, p. 248.

<sup>649</sup> *Ibid.*, p. 275.

<sup>650</sup> Reik, *Der Eigene und der Fremde Gott* p. 127.

<sup>651</sup> *Ibid.* The reference is to John 13.26.

Slightly different among the amalgamations which involve eating is that which, according to Frieda Fromm-Reichmann, appears in the command about seething the calf in its mother's milk. At one place we found this command to signify an admonition to the son to spare the father (supra pp. 672, 682) and, at another, an admonition to the father to spare the son (supra p. 680).

What is true of identification by eating is also true of the other identifications,—identification by imitating and identification by means of objects worn. Imitation of the father's sounds, movements or body parts can express at one and the same time a usurping of the father's prerogatives, an act of admiration and an act of loyalty. From the imitation of the father's or the totem's sounds, music both vocal and instrumental, is asserted to have taken its rise.<sup>652</sup> Usurpation becomes in this way hymnology and laudation.

Reik instances Freud's patient, a child who identified itself with its father by mimicking a horse and Ferenczi's patient, a child of three years and a half who, with similar purport, mimicked the crowing and cackling of fowl.<sup>653</sup> Various ritual acts of hopping, prostrating, crouching, swaying, handclapping, dancing (as among the Mohammedan dervishes and our own Ḥassidim),<sup>654</sup> jumping, marching and kneeling are, in Reik's opinion, traceable to similar father and father-totem mimickries.<sup>655</sup> Freud's little

<sup>652</sup> Reik, *Probleme der Religionspsychologie* pp. 247, 248, 250, 252. "Wie mit fortschreitender Kultur das Tierfell durch die Maske ersetzt wurde, so das Bruellen welches urspruenglich die Laute des Totemtieres nachahmen sollte, durch die Verwendung eines Instrumentes" (p. 211).

<sup>653</sup> *Ibid.*, pp. 213, 214.

<sup>654</sup> *Ibid.*, p. 255.

<sup>655</sup> *Ibid.*, pp. 250, 252, 256. Tragedy was the goat dance in honor of Dionysius (p. 251). First there were the Dionysian cult screams (p. 211), then hymns imitating the screams as the dances imitated the goat jumping. Opera, Reik thinks, originated in dithyrambic hymns. Reik instances the various dancing cults such as those of the Greek Hercules and Dionysius (p. 249), the bear imitations of the Carrian Indians (p. 210), the Buffalo dances of the Mandan Indians (p. 250), also the various dog, sheep, ox and frog dances. The Bible of course mentions the dances of the Baal priests. There is also a view which connects the name *Pesah* with a hopping or skipping of lambs which would be imitated by the nomad worshipers at the time of their Spring festival

patient imitated the movements as well as the sounds of a horse. We should recall, in this connection, the Biblical dances of David, Miriam and the Psalms.<sup>656</sup>

Considering the connection of the various acts mentioned with various expiatory rites, the act of imitation merges also with acts of atonement.<sup>657</sup> Thus again are the aggressive and the submissive fused.

We have noticed the use of the horn as something ritually sounded. The horn is also something ritually worn.<sup>658</sup> In various cults, the priests wear horns. Frieda Fromm-Reichmann believes the *Tefillim* to have been horns originally, one of which becomes displaced to the arm.<sup>659</sup>

Another part of the totem's body made to serve for identification with the father is the skin, like the fish skin worn by Dagon worshipers or the sheep skin worn by the devotees of a Cyprian sheep goddess.<sup>660</sup> Derivatives of wrapping in skin are said to be the *Talith*<sup>661</sup> and the phylactery straps<sup>662</sup> as well as the masks used in certain cults.<sup>663</sup> These masks sometimes represent animal

(*Jewish Encyclopedia*, IX, 553 Article, "Passover" with reference to Toy in *Journal of Biblical Literature* 1897). "Die kultische Taenze" says Reik, "sind zuerst Nachahmungen der Bewegungen des Gottes, der sich auf einer bestimmten Stufe der religiösen Entwicklung als Totemtier darstellt."

<sup>656</sup> *Ibid.*, p. 249. Dances are mentioned in Ps. 114.150, etc.

<sup>657</sup> *Ibid.*, pp. 256, 257.

<sup>658</sup> *Ibid.*, pp. 209, 211. Reik instances the horns of the Sumerian and Babylonian priests and of the Saliens, the priests of Mars, the horned caps of the Schamans of Siberia and of the American Musquakie Indians. Also Scheftelowitz. *op. cit.*, p. 472.

<sup>659</sup> "Das juedische Speiseritual," *Imago*, XIII, 240. To similar effect Reik (*op. cit.*, p. 209). Reik relates to this the ram's head that figured among the culinary delicacies of Rosh Ha-Shanah. He refers to Kirchner, *Juedisches Zeremoniel*, p. 112 (Reik *op. cit.*, p. 226). Reik in his "Gebetmantel und Gebetriemen der Juden," *Imago* XVI (1930), p. 433, disagrees with Frieda Fromm-Reichmann that the head piece is the horn pushed down. He prefers to regard the head piece as signifying a hoof pushed up.

<sup>660</sup> Reik, *Probleme der Religionspsychologie* p. 209 and W. Robertson Smith *Religion of the Semites* (1889), p. 416.

<sup>661</sup> Karl Abraham "Der Versoehnungstag," *Imago*, VI, 87.

<sup>662</sup> Frieda Fromm-Reichmann, *op. cit.*, p. 240. Reik, *op. cit.*, p. 268 and supra 691 and infra p. 696.

<sup>663</sup> Reik, *op. cit.*, pp. 210, 211.

faces and are worn during dances simulating animals.<sup>664</sup> W. Robertson Smith is quoted as suggesting that, in this sense, the dress of the high priest was Yahweh's dress.<sup>665</sup>

In Reik's "Gebetmantel und Gebetriemen der Juden,"<sup>666</sup> *Talith* and *Tefillim* are treated in greater detail. It is there maintained that the handpiece of the phylacteries represents the hoof of the animal and the straps the skin,<sup>667</sup> The *Talith*, made as it is of wool, can represent the animal's hide, the fringes, the animal's legs and the knots in the fringes the joints of the legs. Reik adduces corroboration for this view from the traditional idea that by the windings of the phylacteries the Divine name is formed;<sup>668</sup> also from the Talmudic fancy that God Himself wears phylacteries, from the notion that whoso looks at the fringes looks at God,<sup>669</sup> and from the proximity of the phylactery passage in the Bible to the law of the Paschal offering which is of course the deity totemized. Reik further alludes to the custom of having *Tefillim* with two head pieces just as animals have two horns.<sup>670</sup> He lays chief stress however upon a book by Johannes Lund, "*Die alten juedischen Heiligtuemer*" (1701) which contains information to the effect that pious Jews have worn head *Tefillim* from which a few animal hairs would project and that these were interpreted as reminiscent of the red heifer or of the golden calf. Reik feels that this leaves no doubt that identification with the totem father or deity was the original significance of *Talith*, *Tefillim* and *Zizit*.

The spreading of the Aaronides' fingers at the pronouncing of the benediction is surmised by Karl Abraham to have been a simulation of animal paws or claws, supplementing the animal

<sup>664</sup> *Ibid.*, p. 255.

<sup>665</sup> Reik quotes W. Robertson Smith, *Religion of the Semites* p. 334 but it was not possible to find this point on p. 334 in the 1907 or any other edition.

<sup>666</sup> Reik, "Gebetmantel und Gebetriemen der Juden" *Imago*, XVI, (1930) 389-434.

<sup>667</sup> *Ibid.*, p. 422.

<sup>668</sup> *Ibid.*, p. 428.

<sup>669</sup> *Ibid.*, pp. 402, 429. He refers to Sifre 115 and to Sab. 118b on Num. 15. 38.

<sup>670</sup> *Ibid.*, p. 433 foot note.



skin which the *Talith* represents.<sup>671</sup> The Aaronide, wrapped in the *Talith* and spreading his fingers, is so far identical with the Deity that looking at him is perilous.<sup>672</sup> Abraham attaches significance to the fact that, whatever the Jewish objections to sculpture, it has been permissible to carve, on the tombs of the Aaronides, representations of the finger-spread.<sup>673</sup>

Again, the turban of Aaron, like the mask of Moses an insignium of usurpation, is at the same time a token of obedience to the father-God who is understood to have commanded the wearing of the turban. A similar point is made by Reik with regard to the *Tefillim*—trophies of rebellion and at the same time gestures of reverence.<sup>674</sup> As in a neurotic compromise, so also in ritual, the forbidden becomes permissible.<sup>675</sup>

We are further apprised of ritual acts combining grief over the father's death with joy over his defeat. Mention is made of sacrificial rites in which the participants force themselves to weep, like children forcing themselves to cry over a parental death which may be to them gratifying as well as saddening.<sup>676</sup> The etymological connection between *yalal*, howl and *hallel*, praise is held to embody this ambivalence.<sup>677</sup> Joy as well as awe is known to enter also into the *shofar* blowing. In the unconscious mind, "*ashre yod'e teru'ah*" can, among other things, mean, "Happy are those who were present at the patricide."<sup>678</sup> Reik discerns in the proximity of the Divine name to the *shofar* prayer, "O destroy Satan," a dual sense, making the phrase denote, at the same time, unconsciously, "O destroy God."<sup>679</sup> The change in the time of the *shofar* blowing from the morning service, where the context does not so thoroughly conceal its

<sup>671</sup> Reik, *op. cit.*, p. 223, p. 246.

<sup>672</sup> Karl Abraham, "Der Versöhnungstag," *Imago*, VI, 89.

<sup>673</sup> Abraham *op. cit.*, p. 88.

<sup>674</sup> Reik, *Probleme der Religionspsychologie* p. 268. For *tefillim* the reference is Exod. 13.16; for turban, Exod. 28.36–38.

<sup>675</sup> *Ibid.*, p. 268.

<sup>676</sup> *Ibid.*, p. 254.

<sup>677</sup> *Ibid.*, pp. 253, 254, 255.

<sup>678</sup> *Ibid.*, pp. 222, 255.

<sup>679</sup> *Ibid.*, p. 224. Reik should have said that the words "Destroy Satan," "*kera' Satan*," are to be found in the initial letters of the succession of Psalm verses that are read just prior to the blowing. *Supra* p. 685.



purport, to the *musaf* is asserted by Reik to be a device for hiding its true significance. Parallels in the neuroses, he tells us, are well known.<sup>680</sup>

Certain ritual dances are said to convey moods of sorrow and of pleasure alternating.<sup>681</sup> It is reported that neurotics display the identical ambivalences. "Tendencies of liking and of aversion can combine in one and the same obsessive act."

We have dwelt on Reik's theory that back of the golden calf story is a fancy involving two animals or statues of animals, one of which was a calf and one a bull. Upon this Reik bases his surmise that there may have been a time when a bull father and a calf son were worshiped simultaneously.<sup>682</sup> In that event there would be amalgamated, in the homage to the golden calf, rebellion against the father with loyalty toward the father.<sup>683</sup>

Our attention has also been called to the ambivalence involved in Moses' shattering of the calf; a killing of the father and, at the same time, a punitive self-killing. The same double killing may be signified by the demolition of the two tablets.<sup>684</sup> To the *kappara* ritual, Karl Abraham imputes a similar duality.<sup>685</sup> It is a killing of the symbolized father-god and, at the same time, a killing of the killer, fowl and user being, as already stated, ritually identified. A corresponding ambivalence is ascribed to fasting. Fasting can symbolize a slaying of the totem and can, at the same time, be a self-punishment for the slaying, "just as in certain neuroses an act of self-affliction can be substituted for a repressed sadism."<sup>686</sup> Somewhat analogous are the passages already noted in which the deity is pictured as the sacrificiant. By the deity as slaughterer, the identity of the deity and the animal slaughtered is veiled.<sup>687</sup> A further signification may be the father's

<sup>680</sup> *Ibid.*, p. 225.

<sup>681</sup> *Ibid.*, p. 255.

<sup>682</sup> *Ibid.*, p. 281.

<sup>683</sup> "Die Darstellung der Tradition ermöglicht es wie die des Traumes, zwei einander kontraer entgegenstehende Handlungen in eine zusammen-zuziehen" (*ibid.*, p. 287).

<sup>684</sup> *Ibid.*, p. 304.

<sup>685</sup> Karl Abraham, "Der Versöhnungstag" *Imago*, VI, 82.

<sup>686</sup> *Ibid.*, p. 83. The author might have recalled the fast day prayer of R. Sheshet in Ber. 17a "Yehi helbi we-dami shenitma'at ke'ilu hikrabi lefaneka 'al gabbe ha-mizbeah."

<sup>687</sup> Freud, *Totem und Tabu* p. 139 and supra p. 682.

killing of the son together with the father's punitive self-killing compacted into one act.

Finally there is the exaltation of the God concept by means of which the Biblical accounts efface the primitive crudities. The primitive bull god is exalted into a supermundane law giver. Yet, in being thus exalted, the bull is abolished;<sup>688</sup> his elevation is his undoing.<sup>689</sup> Reik predicates an analogy here to the hero myths studied by Otto Rank.<sup>690</sup> A hero usually has two fathers, a real father of regal station and then a foster father who is likely to be a humble peasant or fisherman. Neurotics and adolescents have similar phantasies of exalted family connections. The thesis is that, in this way, the real father is, at one and the same time, extolled and effaced. Kindred may have been the process by which an assaulted stone god is transmuted into the adored tablets of stone. A single act unites the antithetic tendencies.

## PART II

### CRITICAL

The first part of this study was, on the whole, expository. Our second part is to be critical, that is critical of the contents of the first part.

The present writer must admit the limitation arising from the fact that his acquaintance with psychoanalysis is purely

<sup>688</sup> Reik, *Probleme der Religionspsychologie* pp. 272, 301. Reik thinks that the abhorrence of the bull worship alongside of the reverence for the stones in Exod. chaps. 32-34 would indicate that bull worship was suppressed earlier than stone worship.

<sup>689</sup> "In der Kompromisart neurotischer Symptome, schaltet sie naemlich nicht nur das Bild Jahweh sondern ihn selbst zugleich damit aus dem Kulte aus, was freilich durch die erhoehte Stellung des Weltgesetzgebers ueberkompensiert wird. Die durch die relative verstaerkte Liebe bedingte Erhoehung Jahwehs zum ewigen Gott darf uns nicht darueber taeuschen, dass damit zugleich eine durch den unbewussten Hass erklarte Vernichtung desselben Gottes stattfand—genau so wie im Familienroman der Pubertaetsjahre mit dem sozialen Hinauf RUECKEN des Vaters ein phantastisiertes Wegraeumen seiner realen Persoehnlichkeit verbunden ist" (*ibid.*, p. 281).

<sup>690</sup> Otto Rank, "Der Mythos von der Geburt des Helden" in "Schriften zur angewandten Seelenkunde" 5, (Heft, Wien und Leipzig) 1909, p. 64ff.

bibliographical. He has had no special training in psychoanalysis and no clinical or laboratory experience. The evaluations to be expressed however claim validity only as literary evaluations. The attempt is to assess the quality of the published material so far as this may be done without recourse to any further procedure. A layman's impression of psychoanalytic literature is the main purport of what follows.

In the course of this investigation, a statement setting forth the theory of psychoanalysis as apparently contained in the works studied was submitted by the writer to a number of expert psychoanalysts for criticism and correction. To the following psychoanalysts who have rendered this valuable service, obligation is hereby gratefully acknowledged:

Dr. Isador H. Coriat, Boston, Mass.; Dr. G. V. Hamilton, Santa Barbara, Cal.; Dr. Smith Ely Jelliffe, New York, N. Y.; Dr. Ernest Jones, London, England; Dr. Horace M. Kallen, New York, N. Y.; Dr. Edward Liss, New York, N. Y.; Dr. Cavendish Moxon, San Francisco, Cal.; Dr. Ralph Reed, Cincinnati, O.; Dr. Wilhelm Stekel, Vienna, Austria; Dr. Fritz Wittels, New York, N. Y. formerly of Vienna; Rev. Walter Samuel Swisher, Wellesley Hills, Mass.; Mr. Arnold Kamiat, Brooklyn, N. Y.

This second part of our study will accordingly comprise the following divisions:

- I. Our statement regarding the import of psychoanalysis which was submitted to the experts.
- II. A review of the comments and objections voiced by the experts who read and criticized the statement.
- III. A defense of the proposition that the conclusions quoted in the first part of this article are not necessarily invalidated by their indelicacies, by the absurdities they contemplate or by their anthropological or philological inaccuracies but that they are nonetheless weakened by lack of statistical support.
- IV. A plea for the subventioning of accurate psychoanalytic research into religious and specifically into Jewish problems.

## I. THE STATEMENT SUBMITTED TO THE EXPERTS

The following, with a few minor corrections and supplementations, is the text of our statement on the theory of psychoanalysis. The reader will bear in mind that objections to this statement will receive attention later:

Having completed the exposition of the psychoanalytic interpretations that have been accorded various elements of Judaism, it now remains for us to appraise the several claims and to inquire how much if any of them is true. At once we find ourselves confronted with the formidable question: "When is any psychoanalytic proposition true?" What conditions must any psychoanalytic assertion fulfil in order to be correct? What are the assurances of validity in psychoanalysis and what the earmarks of non-validity? Despite the voluminousness of psychoanalytic literature, this question seems to be nowhere clearly treated. Psychoanalysts are mostly psychiatrists and clinicians whose interests are centered in curing the sick. Like scientists in other fields, they rarely stop to reflect upon the presuppositions underlying their own procedure. We ourselves, before we advance one step farther, must reckon with these presuppositions as best we can.

Our first move will have to be a fresh survey of certain backgrounds. These we can summarize in the following eight propositions:

1. Any person or group of persons consists of numerous purposes. "Wishes," "wants," "desires," "cravings," "urges," "yearnings," "plans," "motives," "goals," "objectives"—all are synonyms of "purpose."<sup>69</sup>

2. Purposes, whatever else they may be, are continuous with the automatic actions and re-actions of the organism and with those prenatal and postnatal conditionings, correctly or incorrectly called "instincts."

3. Sometimes purposes are realized, sometimes thwarted and sometimes abandoned.

<sup>69</sup> This view is elaborated in the article, "The Social Consequences of the One and the Many," *Hebrew Union College Monthly*, (December 1929, January 1930.)

4. Sometimes the divergent purposes of an individual or a group harmonize and sometimes they conflict.

5. Some purposes possess the character of master purposes in relation to which other purposes are subsidiary or auxiliary. A man may buy, sell, rent, borrow, lend, advertise, peddle, higgler, swindle, accommodate, serve in scores of ways and in myriads of instances. In each separate act or sequence of acts, he pursues a separate purpose. Yet all of these diverse pursuits are but accessory to one cardinal pursuit, that of making money. Money acquisition may be itself subsidiary to some more inclusive purpose such as the achievement of security, prestige or power. A man may pack his traveling case, telephone for a cab, drive to the railroad station, proceed from the cab to the ticket window, purchase a ticket, board a train, remain twenty-four hours on the train, leave the train etc.—all of which separate acts are fulfilments of separate purposes that coalesce into the major purpose of going to New York. This purpose may be itself subsidiary to the purpose of singing in the Metropolitan opera, a purpose which may in turn be subordinate to the purpose of acquiring fame as an opera singer etc.<sup>692</sup>

6. Purposes derive their names from the situations which constitute their fulfilment.<sup>693</sup> There is no other way of designating human purposes. This fact fully accords with the general function of all naming. We name in order to control. Every name stands for a certain mode of handling. Our control of human conduct is enhanced when we know (i.e. when we can name) what it is that a given individual likes or dislikes; in other words what it is that fulfils or thwarts his purposes.

7. It commonly happens that people are actuated by unnamed purposes. All of an infant's purposes are of this character. The infant, unable to state that food is what it desires, simply clamors when it is hungry. It frets when it is fatigued. "I am tired, put me to sleep" is more than it can say. This condition obtains also in adult life. We can want something without knowing just

<sup>692</sup> The ancient hierarchization of species and genera can perhaps be shown to be but an aspect of this purpose hierarchization.

<sup>693</sup> There is some analogy here to our practice of discovering the meanings of words from their contexts.



what we want. Eventually we may discover that what we want is a breath of fresh air or a glass of some stimulant or someone's companionship or love embraces or a new religion or higher ideals or the hearing of a symphony concert. Yet it is possible to have, at least temporarily, unarticulated wants.

8. As factors of purpose fulfilment or frustration, mental presentations such as images, thoughts, memories, phantasies, can function precisely as extra-mental situations. There would be no need of mentioning this were it not for the habitual dualism which fails to see that the distinction between mental and extra-mental is something entirely provisional. Mental experiences are experiences and extra-mental experiences are experiences in exactly the same sense. The extra-mental are simply those which, involving among other things, some social necessity, have the peculiar fixity that leads us to speak of space. So far as purpose expression is concerned, the "inner" and the "outer" are alike in every detail:

a. Diverse mental presentations follow one another or co-exist in time, just like extra-mental situations.

b. Exactly like "outer" situations, mental presentations can be pleasing or displeasing.

c. Just as one outward situation can lead to another, so can one mental presentation lead to another. Just as one outward act can be the means to another, so can one mental state be the means to another. The relation, when it obtains among mental states, is called that of suggestion or association of ideas.

d. Just as outward situations have a history, so do mental states have a history. To the historical aspect of mental states, we apply the term "memory" or "recollection." Their detachment from the space fixity enables mental states, as it were, to carry their history with them to a degree impossible with the non-mental.<sup>694</sup>

e. Master purposes assert themselves in mental states precisely as they do in "outward" acts. The master purpose of a man's overt conduct is named after some unitary result to which a considerable variety of different acts leads. Similarly is a master

<sup>694</sup> Rev. Walter S. Swisher calls my attention to an exposition of this doctrine in Bergson's *Creative Evolution* pp. 4 and 5.



purpose named after some unitary result to which a considerable variety of mental association trains leads. That is how we come, as a result of knowing an individual's thoughts and fancies, to characterize his temperament as one of self-aggrandizement or of "escape from reality" or of voluptuousness. Cato's "Delenda est Carthago" is only a celebrated example of how any diversity of mental association trains can draw up to the same converging point. When we adopt a name for the master purpose, the name is likely to be that of this converging point. The suitability of the name, like the suitability of any name, lies in the efficacy of that name as a means of control.

In these eight propositions and five subdivisions of one of them, psychoanalysis has not once been mentioned. The attempt was merely to sketch a background by listing a few familiar and presumably unchallenged observations the bearing of which upon psychoanalysis is now to be shown.

Familiar psychoanalytic themes are already brought into the picture by our reference to wishes, wants, desires, urges, "instincts," etc., as well as by our mention of conflicts, association of ideas, recollections and memories.

The unconscious desires of psychoanalysis are unnamed purposes. The only peculiar thing about them is that their names can be arrived at, if at all, only by means of the psychoanalytic technique. Some of them are master purposes to be discovered by following to their converging point numerous trains of mental association. Until he reaches such converging point, the psychoanalyst is baffled. Like other master purposes, the unconscious desires of psychoanalysis can be subsidiary to some master purposes still more dominant. Not readily is the psychoanalyst satisfied with the meaning that he reaches. He seeks ever more recondite meanings of the subject's dreams, phantasies or movements, more inclusive purposes, profounder converging points, such converging points being the strategic points for wielding influence. Above all, the *ultima ratio* of psychoanalysis is results—as it happens, therapeutic results—which completely fits our contention that the suitability of a name lies in its usefulness as a handle of control.<sup>695</sup>

<sup>695</sup> One might proffer reasons for asking the psychoanalysts to abandon

We might put it also this way: There is an association not only of ideas but also of emotions and volitions. Emotions or volitions attaching to one idea can, by the familiar phenomenon of conditioning, become attached to the associated ideas and can recur with the associated ideas even when the original idea does not recur. One may shudder at the fragrance of a tube rose without observing that the smell, being like that of funeral flowers, is a death suggestion. One may experience an inexplicable thrill in beholding an old sewing machine; one need not recall one's childhood delight in a toy found once in an attic where remnants of an old sewing machine were lying about. These original presentations behind emotional and volitional responses are apparently the salient psychoanalytic quest. The original presentation and, in our present usage, the master purpose appear, according to psychoanalysis, to be one and the same.<sup>695a</sup>

In the language of our background, every psychoanalytic term can, without difficulty, be redefined. Let us illustrate:

*Repression.* A purpose which lacks designation because it is frustrated by some conflicting purpose. Since purposes are named after that which fulfils them, a persistently unfulfilled purpose will undergo delay in securing a name.

*Anamnesis.* The resumption of the mental activities connected with the assertion of some previously repressed purpose. Recollection, as we noticed above, is the historical aspect of mental states. Since every mental state has its history, a resuscitated set of mental states would have a resuscitated set of histories. Anamnesis is primarily not so much a recovery of lost memories as it is a revival of certain detained purpose assertions.

their term "unconscious" and to substitute "unnamed" or to say instead of "the unconscious" "the unarticulated." One is unconscious only of that by which one's consciousness is totally unaffected, just as Isaiah was unconscious of the American continent, Homer unconscious of the radio, a sleeper unconscious of the bed on which he lies, a layman unconscious of Einstein's mathematical intricacies, an inspired orator unconscious of the handkerchief in his pocket or a healthy individual unconscious of the automatic functionings of his own organism. No one is in this sense unconscious of any of the desires that may be called his. The psychoanalysts admit that their "unconscious" desires do affect consciousness. Would not "unnamed" or "unarticulated" be the more accurate term?

<sup>695a</sup> This paragraph is a later addition and was not seen by the experts.

*Compromise.* This occurs when a mental state or an extra-mental situation serves two opposing purposes by the partial fulfilment of both and the complete fulfilment of neither.

*Displacement.* A species of compromise which consists in retaining certain presentation elements satisfactory to a given purpose while surrendering, in the interests of some conflicting purpose, the arrangement or distribution of those elements.

*Rationalization.* A species of compromise which consists in using little more than the name of a socially approved purpose while retaining all except the name of a socially unpresentable purpose.

*Sublimation.* The abandonment of a purpose fraught with troublesome repression and frustration.<sup>696</sup>

*Defense Mechanism.* A set of actions, mental or non-mental, that partly fulfils an unnamed purpose in such manner as to thwart some social purpose with which the observer is identified.

*The I, the Id, the Super-Ego.* The I is the aggregate of purposes constituting a given individual. The Id is the aggregate of unnamed purposes belonging to the I. The Super-Ego is the aggregate of socially endorsed purposes belonging to the I.

Psychoanalysis can thus be translated into terms of ordinary psychology. We must not however overlook its essential and notable uniqueness. Psychoanalysis is unique by reason of its technique.<sup>697</sup> Psychoanalysis may be defined as a technique for holding in check an individual's socially shared purposes long enough for his socially unpresentable and therefore repressed purposes to acquire names and become amenable to control. *The abeyance or relaxation of social pressure is the gist of the psychoanalytic method.* The "free" associations sought are primarily such as are free from social trammels. They represent conduct under relatively desocialized conditions—mental conduct of course; overt conduct of that kind would be disastrous. The

<sup>696</sup> Sublimation is identical with what behaviorists call "reconditioning" and religionists call renunciation.

<sup>697</sup> Dr. Coriat, one of the experts listed on page 700 *supra* takes issue on this. He says: "Psychoanalysis is unique not by reason of its technique alone but by its insistence on unconscious mental processes." There seems however to be nothing in the acceptance of this that need deflect our line of argument.

analyst can do nothing for his patient until he prevails upon his patient to eschew, at least so far as mental processes are concerned, the habitual social deference. The analyst is the vehicle of ethical neutrality. He succeeds only if he can suspend his patient's sense of shame.<sup>698</sup> Perhaps that is one of the reasons why the analyst is likely to be a physician, the individual before whom our sense of shame is expected to subside. He is the anti-thesis of the "Censor" whose presence or absence psychoanalysts claim to be able to trace in dreams. The suppressed anti-social purposes come, in this way, sufficiently near realization to secure names. Indeed it is doubtful whether psychoanalysis could at all have arisen in an age and place in which *mores* were not rapidly disintegrating. By all odds, the chief grievance still felt against psychoanalysis concerns its moral nonchalance.

The claims of psychoanalysis as thus far set forth will, of course, provoke little scepticism. Even though we may doubt whether any considerable suspension of social constraint is possible, we may recognize that psychoanalysis, despite its novel phraseology, is not far removed from ordinary experience.<sup>699</sup> *Psychoanalysis is little besides a specially intensive way of gauging an individual's purposes by observing his behavior.* What it practically amounts to is the observation of people under specially devised conditions analogous to those of the experimental sciences or of certain forms of medical diagnosis. But over and above what we have just synopsised, psychoanalysis vouches for certain specific empirical conclusions. These conclusions relate to the recurrence, the frequency and the extensiveness of certain mental happenings. We may summarize these conclusions in two statements:

<sup>698</sup> Dr. Moxon would qualify this statement by adding "to a limited extent." Dr. Coriat would change "sense of shame" to "feeling of guilt."

<sup>699</sup> One of the respondents listed on page 700 *supra* challenges the phrase "ordinary experience." He says: "That an infant desires to eat his father's penis and expel it *per rectum* is a good way from ordinary experience." To this we reply that it is *psychoanalysis* which is, according to our claim, not far from ordinary experience. This is remote from saying that the experiences reported by psychoanalysis are ordinary. The ordinary thing (approximately) is what the psychoanalyst does, not what the infant does.

1. Certain uniform master purposes of the unsocial type are evinced by all people or by large groups of people. This is the import of such stock terms as "Oedipus Complex," "Narcissism," "Infantilism," "Need for Punishment."<sup>700</sup>

2. There is a high positive correlation between certain recurrent images or groups of images and certain master purposes. Hence the psychoanalytic doctrine of symbols.

Keeping in mind the propensity of master purposes to function as subsidiary to larger master purposes, let us on our own initiative borrow from linguistics and apply the term "ultimate" to a person's most inclusive purposes, the term "antepenultimate" to the least inclusive and "penultimate" to those that lie between. Whether the recurrent purposes alleged by psychoanalysis are of the ultimate, penultimate or antepenultimate rank, the reader of psychoanalytic writings is usually left to make out for himself. With reference to these distinctions,

<sup>700</sup> In his *Zukunft einer Illusion*, *Gesammelte Schriften*, XI, 437, Vienna 1928, Freud disposes with cavalier terseness of Vaihinger's "*Philosophie des Als Ob*." Freud being, in matters epistemological, a layman it would not be arrogant of us to suggest that in the domain of psychoanalysis more perhaps than anywhere else is the doctrine of the *als ob* needed. The case of the Oedipus Complex would be immeasurably strengthened if we might say not that the subject has desires for his mother but that the subject acts in some respects *as if* he had desires for his mother. What the subject displays is not all but only some of the activities implied by "mother attachment." Since it is always easier to think concretely than abstractly, we supplement the abstractions in which we happen to be interested with something that will concretize them. In such manner we speak of electric currents although no liquid of any kind runs through the wires. We speak of planetary attraction although planets have neither arms nor sex appeal and we say that water "seeks" the lowest level although water possesses neither eyes nor brains wherewith to seek. All metaphorical usage is an extension of this concretizing process. The Oedipus Complex, as well as many other of the psychoanalytic entities, are ultimately perhaps instances of the *als ob*. At least regarded as such their demands upon our credulity are greatly reduced. When psychoanalysts speak of the libido as though it were a kind of fluid quantities of which can be directed from one channel into another, what is there to be found anywhere more typical of the *als ob*? One of our respondents is on the verge of the *als ob* conception when, speaking of the Oedipus Complex he remarks: "It is solely a formulation for dynamic measuring—a pressure 'gage'—manometer, barometer, thermometer, and a lot more—to be applied to any act and get a reading in terms of 'developmental adaptation,'"



the published literature is hazy. Freud and Reik seem to regard the Oedipus Complex as something ultimate and something universal.<sup>701</sup>

A more serious shortcoming of psychoanalysis resides in its lack of statistical validation for either of the two conclusions just cited. Nowhere in its ocean of literature do we find figures informing us how many people have been analyzed in a given study and what was the recurrence of the master purposes unearthed, whether ultimate, penultimate or antepenultimate as shown by the converging points of association trains and by the practical efficacy of the designations adopted. How many were the persons of the one sex or the other, one state of health or another, one vocation or another, one cultural opportunity or another, one age or another, one past or another who evinced this or that recurrent purpose, ultimate, penultimate or antepenultimate? How often in a given study has the same image cluster recurred, how often has each image or image cluster figured in association trains leading to this, that or the other master purpose? A penchant for that mathematical tabulation which many deem the *sine qua non* of scientific method is not among the proclivities of the psychoanalysts.<sup>702</sup> Perhaps the clinic has needed the psychoanalysts so urgently that, for the laboratory, they have had little leisure.

The psychoanalytic doctrine of infantilism involves the additional need of statistical reports on observations of infants. Before a given act or phantasy can be classified as a mother fixation or an infantile response, more should be known statistically concerning what infants actually do.<sup>703</sup> Also desirable, from a

<sup>701</sup> One of our respondents advises us to distinguish between the Oedipus Complex in its normal and the same complex in its neurotic manifestations. Naturally the statement about universality is not applicable to the neurotic manifestations.

<sup>702</sup> Sometimes the conclusions offered in the name of psychoanalysis—such as the hypersexuality of prudes, the doctrinal uncertainties of fanatics or the sexual strains in religious excitement—are surmises that can be supported by ordinary observation or introspection without recourse to psychoanalysis. (One of the respondents claims that psychoanalysis in any event deserves credit for drawing our attention to much that, without psychoanalysis, we would never have surmised.)

<sup>703</sup> Of course such obviously infantile acts as snuggling, breast sucking, lothes soiling may, without compunction, be designated as infantile.



scientific point of view, would be a more accurate listing of the reactions called sexual, that is, reactions peculiarly associated with the stimulation of the organs of procreation.

For the lack of statistical confirmation,<sup>704</sup> however, a striking consensus of opinion compensates in a way.<sup>705</sup> The scope of agreement among psychoanalysts is surprising. Nearly all of them accept the doctrine of the Oedipus Complex. Practically all of them grant the existence and the signification of certain symbols such as a door for the female organ of sex, a tree for the male organ, and speaking or singing for the sexual act; if not these images themselves, at least these images in certain allegedly frequent combinations with other images. The presumption is that such fancies as door, tree, voice, have in the course of numerous psychoanalyses, appeared again and again in conjunction with certain reactions familiarly identified with procreative occurrences. The well nigh monotonous unanimity with which psychoanalysts of a number of schools and in various parts of the world have subscribed to many of these interpretations is as impressive as the lack of statistics is bewildering.

When psychoanalytic inductions are collated with the findings of anthropology as in the discussions occupying the first part of this essay, the results are affected both by the weakness of contemporary psychoanalysis and by its strength. These anthropological conjectures are a choice example of inference; they are a procedure from the known to the unknown on the basis of resemblances. Their logic is that the association trains revealed in anthropology are so closely akin to those found in psychoanalysis that the predication of identical master purposes in both

<sup>704</sup> One of the respondents calls attention to the statistics in the *Psychoanalytic Review*, IV, 209-216 and *The International Journal of Psychoanalysis*, IV, Nos. 1 and 2, 1923, 254-269. These however are not statistics of association clusters. They are statistics of clinical visits, diagnostic results and finances. It has not been possible to consult *Zeitschrift f.d.g. Neurologie* 130 Heft 4-5 mentioned as a possible source of statistics by the respondent quoted on page 712 *infra* as opposed to statistics.

<sup>705</sup> Rev. Swisher writes: "It is amazing how even a little psychoanalytic practice tends to confirm Freud's basic ideas. I began by being very sceptical myself, setting down the basic concepts first as 'highly improbable,' then 'unverified,' and finally 'verified.'"

of them were not a rash conclusion. Nor is it a rash conclusion. The rashness lies in dispensing with statistical exposition of those clinical events upon which the inferences are founded.

## II. THE COMMENTS OF THE EXPERTS

We shall now synopsize the comments of the experts named on page 700 in so far as they take issue with the foregoing statements. Expressions of approval will be quoted only when, in relation to some expression of disapproval, they voice a contrary opinion. We shall also leave aside comments which challenge not the views advocated in our statement but the views quoted in our statement;<sup>706</sup> we do not enter into controversies which the psychoanalysts have among themselves. Comments calling for mere linguistic changes have already been met by alterations in the text while certain minor differences of opinion have received acknowledgment in the supplementary notes.

Above all it is our intention to disregard comments touching the non-psychoanalytic portions of our statement. While the authority of psychoanalysts is to be recognized in psychoanalytic matters, there is no occasion to defer to them in extra-psychoanalytic matters. On questions of sociology,<sup>707</sup> metaphysics and

<sup>706</sup> Examples are comments on the infantilism mentioned on pages 708, 709 and on the fixed symbolism of pages 708, 710. The respondent observes: "There is no psychoanalytic doctrine of infantilism" and "fixed symbolism is nonsense." The first part of this essay abounds in examples to the contrary. Similarly his statement: "Psychoanalysis does not 'observe people under specially devised circumstances' nor does it 'vouch for specific empirical conclusions.'" This surely does not accord with the positions of other writers.

<sup>707</sup> One of the respondents writes *a propos* the moral nonchalance pp. 706, 707: "The whole conception of the activity of the Super-Ego negatives this idea of moral nonchalance." Another writes: "The conception of the super-ego which is highly moral completely disposes of the misstatement that the chief grievance still felt against psychoanalysis concerns its moral nonchalance." We thoroughly agree that it *ought* to dispose of the grievance. In fact we see no reason why there should have been any grievance in the first place. Yet almost every day we encounter people who do look askance at psychoanalysis on moralistic grounds. Another respondent calls our reference to disintegrating mores on page 707 "abusive." It might as well be commendatory; mores often deserve to disintegrate. The point, in all events, has nothing to do with psychoanalysis as such. It is an observation of purely sociological import.

epistemology, the opinion of a psychoanalyst is no more compelling than that of any other interested layman. It will be noticed that psychoanalysis as such does not enter our presentation until page 704. Three of the respondents have taken issue on various points in these opening pages; but since the issue is metaphysical rather than psychoanalytic, we content ourselves with acknowledging that such objection has been voiced. The same applies to a number of subsequent points.

Whether the objection raised is psychoanalytic or non-psychoanalytic was occasionally difficult to decide. An example is the remark of one of the respondents touching the matter of statistics called for on page 709. His words are:

"Insofar as, in my opinion, none of the master, ultimate or penultimate purposes have anything to do with psychoanalysis as here stated, to try to get statistics indicates a total lack of comprehension of the situation. As well try to get statistics on the pressure of the sap in all of the trees at any or all times of the year in the forest. 'Tis nonsense to state the proposition. A biometrician may count a million shells of *Pecten irradians* to try to determine a single master pattern. When anyone is willing to count millions and millions of millions of patterns in human behavior then the so-called 'delusion of statistics' can be demonstrated."

It is not easy to judge whether this shall be viewed as a pronouncement of a psychoanalyst on psychoanalysis or as the pronouncement of a psychoanalyst on epistemology. The fact that the respondent cites botanical and ornithological phenomena as well as his explicit admission that the points involved are extra-psychoanalytic would seem to indicate that the matter he treats does lie outside of his specialty.<sup>708</sup>

To the criticism of two of the respondents that our statement deals exclusively with Freudian psychoanalysis and ignores rival schools such as those of Rank, Jung and Adler, our reply is that the standpoint of the writers quoted in the first part of this

<sup>708</sup> This same respondent who will be frequently quoted in these pages states in a later communication: "My remarks were hastily scribbled down between patients and may be incompletely expressed." Elsewhere in his first letter this respondent observes "One brain, structurally requires 20-30 years to study by statistics. One individual studied 'functionally' would require at least a couple of light years." (Is not a light year a measure of distance?) Perhaps the writer did not mean these remarks to be taken seriously.

article happens to be Freudian. Followers of the other schools have not applied their findings to Jewish data. The aspects of mental life stressed by the Freudians are broached in the writing which we have surveyed while those stressed by the others are not broached. So far as these schools themselves may conflict with one another, any attempt to decide between their opposing claims falls, of course, outside our present scope.

Not a little rejoinder was evoked by our note 695 on the substitution of "unnamed" for "unconscious." One respondent writes:

"This is not correct. The unconscious is repressed material, which may or may not be capable of being brought to the conscious perceptive system—i.e. verbalized—or as you state it, 'named.' Whether capable or not capable of verbalization is a purely dynamic situation; comparable to solid, liquid, gas, in dynamic statement."

"The meaning of 'unconscious' as given is not clear in the psychoanalytical sense. In the strictly psychoanalytical sense, the unconscious consists of dynamic mental processes, not merely latent thoughts in general. These dynamic mental processes do not reach consciousness in spite of their effectiveness and intensity and cannot be brought into consciousness by any effort or will or act of memory. The unconscious is a special function of a particular system of mental apparatus.

Yet another respondent, slightly diverging from the other two, has this to say:

"Unconscious is not the same as 'ignorant of' even in everyday speech. The unconscious (in general) was once the conscious and is capable of becoming again conscious. Certain primitive neural response patterns perhaps may be said to belong to the unconscious in the sense of having constituted a part of the experience of the organism. The unconscious in its practical therapeutic aspect has to be regarded not merely as a static store-house of memories but as having a dynamic quality."

The question arises: Would these three respondents have raised this objection had they kept in mind the dynamic conception of all knowledge subscribed to in our earlier paragraphs<sup>709</sup> or had they even noticed our sentence on page 704," their names may be arrived at, if at all, etc."? Again is the likelihood entirely absent that we are confronting once more one of those meta-

<sup>709</sup> Speaking of our presentation as a whole, the first of the respondents here quoted observes: "If the statements were formulated from the dynamic angle, the whole situation would receive a different mode of treatment "

physical questions expertness in which is not necessarily guaranteed by psychoanalytic expertness? Surely that which has already been said regarding psychoanalysis and the *als ob* is not without bearing on this point.<sup>710</sup>

Two of the respondents are less sweeping in their dissent. One of them holds:

"This dictum is true only if you asseverate that there is to be only one meaning of the word 'unconscious.' Actually there are several meanings in the field."

while another claims analogously that the word "'unnamed' while suitable to certain types of thinking is not suitable to the feelings involved."

Meanwhile, Dr. Wilhelm Stekel, commenting on the same note declares: "Auch ich bin Ihrer Ansicht und finde dass 'Namenlose' oder das noch nicht 'Verwoerterte' besser waere."

Issue was further taken with the words "observing" and "observation" on page 707. The sentence: "Psychoanalysis is little besides a specially intensive way of gauging an individual's purposes by observing his behavior" ought perhaps to be emended: "Psychoanalysis is *among other things* a specially intensive way of gauging an individual's purposes by observing his behavior." The sentence in its original form referred, like all the rest of our statement, to pronouncements contained in the first part of this article where obviously nothing but observation is involved. The respondents, being psychiatric practitioners, are promptly aware that their work entails much more than observation. One of them writes:

"It may be this and more. Psychoanalysis is not observation of the patient by someone but a mode of bringing the patient to see himself—an 'Alice in the looking glass' procedure."

Another asserts:

"This betokens great ignorance . . . what about interpretation?" May not this distinction between observation and interpretation also be one of our metaphysical excursions? Likewise not entirely free of metaphysics is a comment of a drift somewhat contrary to the preceding, a comment on our remark (page 704)

<sup>710</sup> Note 700 *supra*.



that the *ultima ratio* of psychoanalysis is results. Here the respondent protests:

"The *ultima ratio* is not results, for psychoanalysis is not all therapeutic, but is the science of unconscious mental processes and in its broadest sense is the province of knowledge opened up through the utilization of this science of the unconscious."

There was also divergence of opinion touching our description of the psychoanalytic technique as a relaxation of social pressure (supra pp. 706, 707). One of the respondents comments:

"No psychoanalyst would say so . . . on the contrary [the process of analyzing] is [something] intensified and concentrated."

Another respondent prefers to construe it as a new socialized situation, a living over of the child relation to the parent, the psychoanalyst representing a parent possessed of an enhanced capacity to understand. Another respondent however who on other points assails our statement most vehemently regards our surmise about the relaxation of social pressure as "a very interesting thought." It should be noticed, of course, that were we to alter our statement to comply with the objections, there need still be no alteration of that for which the statement attempts to account. The fact still remains that attitudes which often come to light under analysis are said to be lascivious, incestuous and homicidal.

By far the greatest number of objections seem to converge on the series of illustrative definitions given on pages 705, 706. One of the respondents asserts:

"None of these definitions has anything to do with the economic dynamic ideas of psychoanalysis. They represent a series of illy defined notions chiefly taken from amateur analysis or in some cases from the earlier cruder stages of psychoanalytic emergence and evolution."

Dr. Coriat offers the following series of rectifications:

" 'Repression' is better defined as the mental process by which perception and ideas which would be painful to consciousness are rejected from consciousness and forced back into the unconscious system, but still remaining dynamic."

" 'Displacement' is better defined as a transference or attachment of an emotion from one group of ideas which may harmonize with unconscious thinking to other and quite opposite ideas as they exist in consciousness."

" 'Rationalization' is better defined as the inventing of a reason for an attitude or action, the real motive of which attitude or action is not recognized by consciousness."



" 'Sublimation' is not identical or synonymous with what the behaviorists call 'reconditioning.' Sublimation is a psychological tendency whereas reconditioning is essentially a physiological reaction (see Pavlov's 'Conditioned Reflexes'). Therefore, sublimation had better be defined as the process of deflecting the energy of the sexual impulses to any objects or aims of a non-sexual or socially useful goal. Sublimation is really a desexualized sexual impulse."

"*Ego*, in the psychoanalytical sense is the superficial part of the id which has been modified by the direct influences of the external world through the senses, has become imbued with consciousness and whose chief function is the testing of reality."

"*Id*. Define as the impersonality of the mind apart from the ego; the true unconscious or deepest part of the mind and as such, the reservoir of instinctive impulses. It is the dynamic equivalent of the descriptive unconscious."

*Super-ego*. Define as that part of the mental apparatus which criticizes the ego and causes pain to it whenever it tends to accept impulses emanating from the id.

In his criticism of our definition of repression, Dr. Coriat is joined by three of the other respondents. Dr. Reed also says:

"Repression is a form of activity, more than merely a purpose—it is a *fait accompli* . . . The memory of an experience is repressed not so much because it conflicts with some purpose or other goal but because it conflicts with one's cultural acquisitions and super-ego ideals, i.e. it is a part of one's self unacceptable to the remainder."

Dr. Jelliffe regards our definition as incorrect from the dynamic economic point of view. Rev. Swisher similarly dissents. He would define repression as "the involuntary exclusion from consciousness of painful ideas and desires."

While Dr. Reed's redefinition of displacement comports with that of Dr. Coriat, Dr. Coriat's treatment of rationalization is paralleled by the comment of Dr. Hamilton that "the unwitting ('unconscious') nature of rationalization ought to be included in a definition of the term."

Five of the respondents in addition to Dr. Coriat take issue on our definition of sublimation. Note 696 relating sublimation to certain behavioristic concepts proved particularly objectionable. Rev. Swisher, quoting the dictionary, offers the correction that sublimation "is redirection of energy belonging to a primitive tendency into new, non-inherited channels." He quotes Jones that sublimation is "the deflection of the energy of a sexual impulse to a non-sexual and socially useful goal." Swisher's own

definition is "the diversion of the libido from sexual to non-sexual creative ends." Dr. Hamilton's and Dr. Reed's criticisms are similar.

Four of the respondents in addition to Dr. Coriat call for a revision of the definitions of Ego, Id and Super-Ego. Dr. Jelliffe corrects as follows:

"I or Ego—Reality testing mechanism—conscious perceptive system. The Super-Ego is a dynamic censorship process—partly ontogenetic, partly phylogenetic, to aid the repressing mechanism of the Ego. The Id is the totality of the mental systems and divisible into the conscious-perceptive Ego, the intermediary (conscience of theology in part, Super-Ego or Idea Ego) and the deeper unconscious."

It would appear that interchanging our definitions of the Ego and the Id would go a considerable way toward embodying these corrections. Dr. Moxon asks: "Could not the super-ego embody a purpose of the individual not endorsed by the social will?"

*A propos* all of these criticisms we shall not repeat what has already been said about metaphysical intrusions and about the overlooked role of the *als ob* in psychoanalysis (pages 711, 730 and note 700). Nor dare we, a layman, faced by experts, claim much validity for our feeling that some of our definitions provide, although with different wording, for much or all that the corrections affirm. It can not be denied of course that our definitions contain much that is erroneous and that their need of revision is great. The important question however is: Will such revision alter the status of the point that the definitions attempt to illustrate? That point was that psychoanalysis is a mode of defining and controlling certain human purposes which are inaccessible to ordinary observation and that success in such control is the final standard of distinction between the psychoanalytically correct and the psychoanalytically incorrect.

A number of the respondents flatly deny that the processes of psychoanalysis can at all be translated into more general terms. Dr. Jones writes:

"When you say that psycho-analysis can thus be translated into terms of ordinary psychology one should be sure that one can substantiate this remarkable claim. In the list of definitions you give on the preceding page there is no evidence that you can substantiate the claim, because many of them are simply re-definitions of your own psychoanalytic terms rather than a transla-

tion into ordinary psychological terms of what psychoanalysts actually mean by their terms. The case of sublimation is perhaps the best example," etc.

Dr. Liss writes similarly:

"I find your psychoanalytic conceptions are based upon fallacious interpretation of the literature. It is the old trouble of trying to convey in different language a similar thought. It is rarely accomplished. At best a compromise is arrived at with the feeling 'If only the other person spoke as we do!'"

Dr. Jelliffe says:

"Psychoanalysis can never be translated over into older psychologies. It is an emergent, a novelty and therefore is not definable any more than any other novelty."

Dr. Reed is of the opinion:

"Psychoanalysis has to do mostly with a different order of activity, the unconscious. That is why it is not quite so easy to translate it into every day language."

while Dr. Wittels probably has this same matter in mind when, referring to our statement as a whole, he says: "I find I cannot agree with your views on psychoanalysis."

On the other hand, Dr. Moxon writes:

"I found the attempt to translate the theory very valuable and clear."

Dr. Hamilton writes:

"I think your pages (on the translation of the theory) are a real contribution, and your purpose on the whole a most fruitful one."

Rev. Swisher expresses the view:

"It is a good thing to translate psychoanalytic terms into everyday, comprehensible terms, and I think that with the exceptions I have cited, you have done it admirably."

Mr. Arnold Kamiat says:

"You do well to relate psychoanalytic concepts to fundamental psychological notions, for it is one of the tests of the truth of a proposition that it can come into relations of unity with other propositions accepted as true."

Prof. Kallen writes:

"I like the reinterpretation of the psychoanalytic concepts into more familiar forms: that is sound and scientific."

Finally, counterbalancing the blanket dissent of Dr. Wittels is the blanket approval of his compatriot Dr. Wilhelm Stekel:

"Ich finde Ihre Auseinandersetzung sehr interessant und moechte gar keine Stelle geaendert haben. Es ist gleichgueltig ob ich in Allem uebereinstimme."

As we bring this section to a close, the only question of moment before us is: Granting the validity of all the psychoanalytic and not merely metaphysical strictures raised, how would our final position be effected? We have presented all of the objections. Crushing indeed were some of them. Yet do not our essential conclusions emerge unscathed? Those conclusions were that there does exist in psychoanalysis a distinction between "correct" and "incorrect," that the distinction rests here as everywhere on certain practical concerns and that lack of statistical validation is as weakening in psychoanalytic generalizations as it is in generalizations of any other kind. May not one of the respondents whose criticisms were of the severest have had this in mind when, in a subsequent letter he wrote:

"Thus I have no dissent but only ■ pleading for a deeper penetration of the mysteries of the unconscious."

### III. VALID AND INVALID OBJECTIONS TO THE CONTENTS OF PART ONE OF THIS ARTICLE

One purpose of the foregoing was that of fending off certain antagonisms. The grotesqueness, the absurdity, often the indelicacy of some of the deliverances quoted in the first part of this article will probably stir vehement opposition. But the grotesque, the absurd and the indelicate are precisely the stamping ground of psychoanalysis. The uncontrolled mentation which is the subject matter of psychoanalysis can not very well be anything except absurd. The grotesque, the absurd and the indelicate are such because of their variance from social standards and the realm of the unsocialized is the realm of psychoanalysis.

Surely no one will insist that the grotesque the absurd and the indelicate are absent from human life. What can be more absurd than the reveries, the day dreams and the night dreams of anyone? Many of the absurdities exhibited in our Part One are only such as are commonplace in anthropology and inseparable from primitive mind processes. There need be nothing absurd in reporting the absurd.

Objection will also be raised because of anthropological, philological, liturgic, exegetic or historical misstatements some of which we have already noted and many more of which can

doubtless be detected. Yet the extent to which blunders of this kind can enfeeble the conclusions reached is not overwhelming. For brevity, let us use the term "anthropological" to cover the anthropological, the philological, exegetic etc. or whatever other areas outside of psychology our writers may have invaded. Let us use the word "complex" for any of those "unconscious" wishes or combinations of wishes which our writers claim to have ferreted out. We shall then find the framework of their reasoning to be a syllogism somewhat thus:

Certain image or action types are peculiar to such and such complexes.

The facts in the given anthropological case indicate those image or action types.

Therefore, the facts in the given anthropological case indicate such and such complexes.

The major premise of this syllogism is entirely a matter of psychoanalytic, clinical or laboratory observation. It is not strengthened by anthropological accuracy nor weakened by anthropological error. The minor premise does involve the anthropological, the facts in question being in a very large number of instances anthropologically ascertained. Yet even here anthropological misstatement need not invalidate. The facts that remain after the misstatement has been discounted may still indicate the alleged image or action type. Nay more, the facts that emerge from a correction of the misstatement may also indicate that image or action type.

One circumstance however complicates the problem. On pages 614, 615, discussing Levy's interpretation of the Paradise story, we observed that the author had neglected to state in whose mind those associations had occurred. Was it in that of one or more of the original narrators or of one of the first writers or of one of the editors or of subsequent readers or of several or of all of these? With the exception of the Allwohn analysis of Hosea, the Becker analysis of R. Nachman, Reik's analysis of the young woman who forgot the name, Ben Hur, and of the exegetes who emended *immo* to *abiw*—likewise some of Kantor's and Reik's comments on David, Ruth, Joseph etc. assuming these to have been actual personalities—the same questions



concerning whose mind entertained the associations apply to virtually all of our material.

From this diffuseness and non-individuation of the complexes considered, another syllogism takes shape:

Certain complexes are as prevalent or almost as prevalent as human nature.<sup>711</sup>

Certain types of acts and of images are peculiar to those complexes.

Therefore, certain types of acts and of images indicate complexes as prevalent or almost as prevalent as human nature.

Here it is the minor premise that is purely psychological, unaffected by anthropological considerations while it is the major premise that comes under anthropological influence. To establish universality or extensiveness, laboratory data must be supplemented by the anthropological. Still the same applies here as in our previous syllogism. Anthropological error need not undermine. The premise may remain secured by anthropological points that are correctly stated and even by points arising from the rectification of the error.

It follows that the weight of the argument rests not on anthropology but on psychology. Error in the latter domain rather than in the former is that which weakens. The question is therefore in place: "How much error in the latter domain have our writers committed?" But the psychoanalytic expertness required for a reply to this question is beyond the reach of the present study. Psychoanalytic competence is something that the writer of these words does not possess. All that it is possible to do is to take cognizance of what, at least to a layman, are certain inadequacies.

We can notice that the writings surveyed in the first part of this article exhibit, so far as their use of modern psychological research is concerned, four distinct features:

<sup>711</sup> Freud actually insists, "Ohne die Annahme einer Massenpsychose einer Kontinuität im Gefuehlsleben der Menschen, welche gestattet sich ueber die Unterbrechungen der seelischen Akte durch das Vergehen der Individuen hinwegzusetzen, kann die Voelkerpsychologie ueberhaupt nicht



1. References to individual cases.
2. References to types or classes of cases.

Within each of these divisions we have to distinguish between:

3. Initial facts.
4. Alleged subsequent findings interpretative of those facts.

### 1.

Specific cases covered were:

The Jewish man who reacted erotically to forbidden food (p. 671).

The Jewish woman who reacted erotically to forbidden food (p. 671).

The young woman who forgot the name of the book, Ben Hur, (p. 628).

The child who spoke of desexualizing his father (p. 647).

The child, Freud's patient, who mimicked a horse (pp. 694, 695).

The child, Arpad, Ferenczi's patient who mimicked fowls (p. 694).

The neurotic woman who would clean out a drawer and then dump the dirt back again (p. 652).

The patient whose voice grew progressively fainter (p. 660).

The woman who dreaded stepping on the indentations of cement sidewalks (p. 609).

The woman given to swearing by the life of her husband (note 425).

The man who feared that his marriage to a certain woman would prove fatal to his father (note 335).

Freud's patient who was beset with an inclination to blaspheme (p. 650).

These instances are reports of observed facts. They involve no interpretation and entail no psychoanalysis. Their credibility depends upon nothing except the veracity of those reporting. One may believe these reports or disbelieve them whether one's attitude toward psychoanalysis is friendly or hostile.

bestehen . . . keine Generation ist im Stande bedeutsamere seelische Vorgaenge von der naechsten zu verbergen" (*Totem und Tabu* p. 146).

## 2.

The same applies to certain types or classes of cases the following examples of which have been furnished by our writers:

Married couples whose relations improve when there are children (p. 625).

Hostile sentiments that lead to hostile actions (p. 612).

Patients who neglect to close the physician's door (p. 609).

Children who theorize about the possibility of changing male into female (p. 630).

Children who fear being eaten by giants or ogres or being butted or eaten by animals (pp. 642, 648, 670, 674, 675), or who are alarmed at masks (p. 674).

Distortions in people's memories of childhood events (p. 678).

Displacements and distortions familiar in neuropathology (pp. 645, 664).

Neurotics who fear to touch door knobs (p. 609).

Neurotics in whom there is a pronounced struggle between belief and disbelief, desire and aversion (p. 613).

The concomitance of masochism and sadism (p. 631 and note 187).

People who dream of death (pp. 617, 648), of snakes (p. 618), or of being assailed by some unknown person (p. 646).

Persons given to fierce censure of moral laxity who are themselves morally lax (pp. 623, 624).

Algolagniacs who fetter themselves with gloves, head bands etc. (p. 692), neurotics with mouth "pollutions" (note 119).

Scrupulous persons with a proclivity for rebelliousness (p. 650).

People, especially adolescents, with whipping phantasies (note 183).

Persecutors who enjoy seeing the torments of their victims (p. 632).

Neurotics who speak in whispers (p. 669).

Phantasies of exalted family connections (p. 699).

"Split" or multiple personalities (p. 613).

Neurotics who confuse the dates and the sequences of occurrences (note 294 and pp. 646, 647, 664).

The self execrations involved in vows and oaths (p. 660).

Clinical anagnorisis (p. 634).

Ambivalences (pp. 607-614 etc.).

Here also we are still in the domain of the commonly observable. Credence rests upon our own personal observation or upon our confidence in the honesty or sanity of the person reporting.

### 3.

But this is not yet psychoanalysis. Cases of the kind enumerated are only the starting point of psychoanalysis. Psychoanalysis occurs when, for the sake of interpreting the readily observed, "free association" unearths something more recondite. Psychoanalysis introduces something more debatable than the observed facts. It purports to reveal hidden and unsuspected mental contents. As a consequence credibility calls for more than the veracity of the persons reporting. It depends also upon their skill and upon the technical correctness of their procedure. With regard to our individual cases, examples of the more recondite findings are:

That the young woman forgot the name Ben Hur because she desired to be a prostitute (p. 628).

That the eroticisms of the forbidden food cases were something incestuous (p. 671).

That patricidal impulses underlay the horse and fowl mimickries (p. 694).

That the woman whose voice grew fainter and fainter was condemning herself to death for mentally committed sexual derelictions (p. 660).

That the man who feared fatal consequences for his father was potentially a murderer of his father (note 335).

### 4.

The following are instances of such alleged findings applicable to the types or classes of cases:

That restlessness indicates that sex impulses have been repressed and are seeking abreaction (p. 624).

That repressed tendencies become active when, in ecstasy, there is a narrowing of consciousness and a suspension of conscious control (p. 624).

That patients' unconscious attitudes toward the physician are divulged by the forgetting to close the door (p. 609) or by flatulence (p. 692).

That snake dreams or phantasies or death dreams mean coitus (pp. 617, 618).

That dreams of being attacked by an unknown person signify castration (p. 646).

That children's dreams about sleeping persons signify death (p. 648).

That people's execrations of others are a rebuke of their own propensities (p. 624).

That neurotic acts of self punishment simulate the dereliction unconsciously taken to require the punishment (p. 607).

That an act of self affliction can be substituted for a repressed sadism (p. 698).

That in dreams or phantasies, sister or niece can be a "mother substitute" and brother or uncle a "father substitute" (pp. 638, 649, 660).

That cities or houses can symbolize the female body, doors the vagina, trees the father; sounds, eating and ladders, sexual intercourse; tombs or countries the maternal womb; and money the feces (pp. 638, 621, 670, 617, 640, 642, 635, notes 114, 291).

That there are neurotic symptoms in which the reaction is aroused by persons and objects more and more removed from the original stimulus to the reaction (p. 684).

That the hypothesis that eating signifies identification is substantiated by dreams (p. 693).

That in neurotic compromises, the forbidden becomes permissible (p. 697).

That we persecute ourselves in our persecutions of others (p. 613).

That neuroses seek to conceal something (pp. 697, 698).

That neurotics resist acknowledging their own infantilisms (p. 612).

That the feeling of uncanniness is due to a subtle identification of the transcended and the attained (p. 611).

That when Narcissism is wounded or when a mother goddess is lacking, the libido may be diverted from the self to other objects (p. 632).

That narcissism can function invertedly (p. 634).

That phantasies of whipping have an incestuous significance or at least a sexual one (note 183).

That humility is inverted self adulation (p. 634).

That neuroses are the breaking out of repressed inclinations (pp. 652, 699).

That the unconscious mind does little discriminating (p. 608).

That dreams, jests and neuroses are wish fulfilments (p. 653).

That among these wishes is the wish for a return to the womb (p. 640).

That the self execrations involved in oaths and vows are a covert form of self punishment (pp. 660, 661).

That whatsoever is strongly repudiated falls subject to amnesia (pp. 627, 665, 685).

That there are such phenomena as overdetermination (note 10). *Allmacht der Gedanken* (pp. 608, 611, 632), *Verschiebung nach oben* (note 275 and p. 688), repressions and displacements (pp. 645, 646), mental disguises (pp. 644, 645), neurotic reinterpretations (pp. 607, 646, 678) and compromises (note 689).

Here we are no longer in the domain of something that anyone can observe for himself. Credibility here will depend upon the details of the evidence that is offered. Especially great will be the need of such details in connection with the types or classes of cases because here as everywhere much more evidence is needed to establish a general conclusion than a particular one.

It is in this matter of evidence that our writers default. Nowhere in the writings that we have utilized are we provided with anything but conclusions. The only exception is the very scant and abridged account of the analysis conducted by Reik upon the young woman who forgot the name Ben Hur.

The works we have quoted abound in references to other

works which other works are in turn loaded with references to still other works. So far as it has been possible to scan these remoter writings, the status of the matter remains unchanged. Everywhere we find conclusions, never a delineation of processes. Beyond the *ipse dixit* of the writer<sup>712</sup> and, it must be confessed, the impressively concordant *ipse dixits* of numerous writers, we are not permitted to go. As laymen we would probably be incompetent to pass judgment upon the details even if they were presented. At the same time there is nothing to prevent our noticing when detailed evidence is furnished and when it is not. As laymen we can also notice that when it comes to anthropological applications, only the types or classes of phenomena are of any value. The basis of inference offered by individual cases is surely too slight to count.

Of course it does not by any means follow that the conclusions quoted in our Part One are necessarily incorrect.<sup>713</sup> All that follows is that so far as the accessible literature takes us, the conclusions are "not proven." We are justified in expecting that some day there may come within our ken writings already in existence or in the future to be brought into existence wherein will be provided the proofs which as yet are lacking. Meanwhile the layman must stand particularly on guard against supposing that where conclusions are psychoanalytically erroneous, the alternative conclusion that may chance to be psychoanalytically

<sup>712</sup> Not by any means to be underestimated is the circumstance that in the psychoanalytic writer's own mind the alleged train of mental associations has indubitably occurred. Of this much his *ipse dixit* is incontestable evidence. In these mental association trains of the psychoanalytic writer himself, there is nothing perceptibly different from the familiar rangings of our own day dreams and subtler emotions. A strengthening of the writer's conclusions would accordingly ensue if it could be shown that the association train operative in his own study of any given clinical or anthropological problem is not something peculiar to the writer but something generally human.

<sup>713</sup> Take for example Reik's discussions (supra pp. 627, 632, 639, 655, 664) of the Jewish attitude toward Jesus. The traditional Jewish abhorrence of Jesus is hardly to be explained as solicitude about academic correctness on some point of historical or theological information. The passion for theoretical accuracy is something far milder than this. The Jewish attitude toward Jesus involves too many similarities with emotional conflict to permit of any glib dismissal of Reik's hypothesis.



correct will be any the less absurd, grotesque and indelicate. We must repeat: The absurd, the grotesque and the indelicate are the territory of psychoanalysis *par excellence*.

#### IV. THE NEED OF SUBVENTIONED RESEARCH

The one persuasion to which we are inevitably impelled is that there should be generous financial provision for psychoanalytic research. While the economics of psychoanalysis are themselves in need of research, the impression may not be altogether unwarranted that the average analysis costs three thousand dollars in money and requires from six months to two years of time.<sup>714</sup> Liberal subventions are needed enabling gifted analysts to devote themselves entirely to investigations along rigidly scientific lines. Large numbers of persons should be analyzed. Records should be kept of their purposes ultimate, penultimate and antepenultimate. The ratio of the respective occurrences of these purposes among people of different sexes, varying ages, vocations, degrees of health, racial heritage etc. should be computed. Recurrences of uniform image clusters and their relations to the respective master purposes should be measured. Such study must also not ignore those less disreputable purposes whose determination, like those of the money maker and the opera singer in our illustrations (*supra* p. 702), require no psychoanalysis.

Special endowments should support the psychoanalytic investigation of religious phenomena, whether it be religious phenomena in general or Jewish religious phenomena in particular. Urgent practical interests as well as theoretical ones are at stake. Virtually the entire story of religion is the disposal, either by sublimation or by compromise, of man's socially unrepresentable purposes. Sublimation seems to obtain in such experiences as repentance, self-sacrifice, earnest prayer, personal purity, social service, religious art. Compromise is exemplified in the various religious ceremonies, creeds and persecutions—at any rate according to some writers. Who knows but, aided by psychoanalysis, we

<sup>714</sup> Respondents who expressed themselves on this point thought that the monetary sum stated was excessive.

might reckon more successfully with such problems as Temple attendance, satisfactory devotions and sermons, inspiring religious instruction, Jewish loyalty, social mindedness or whatever else may be the conundrum that the religious worker is expected to solve!

To illustrate the possibilities of psychoanalytic theory, let us take purity as an example. The spiritually minded man of to-day must heed the sex *mores* if he would be at peace with his conscience. Observe how the Freudian anthropology provides a pattern or paradigm of this. The Freudian psycho-anthropology posits a primitive father owning all the women of the tribe and a son inhibited from these women until, having endured the rigors of initiation, he receives with the father's blessing a wife from the father's hands. This tribal father, according to the Freudians, evolves into the Cosmic Father, the God of the modern worshiper, a God Who is in turn identified with the conscience of the worshiper. Like the primitive son, the spiritually minded man of to-day can not be at peace with his God unless he abstain from all women except "the woman that Thou gavest me," acquired only after his hard initiation into economic competence and conferred only in the marriage ceremony presided over by the minister, the priest or the Rabbi—the representatives of God. To the spiritually minded man, the sex urge having become sublimated, the beauty of girlhood is the beauty of the Divine, its presence the reverently if not adoringly felt presence of the Divine. Pure and lovely it can readily be conceived as belonging to the Divine, transfused with the radiance of the Divine, anchored eternally in the Life Divine! It must therefore be left to the Divine.<sup>725</sup> Its dishonoring would be the irreparable outrage-

<sup>725</sup> It is hard to forego quoting at least two stanzas from a well known love song illustrating the religious sublimation of sex. The stanzas are from "All Through the Night" a Welsh song translated by Walter Maynard:

"Sleep, my love, and peace attend thee,  
All through the night;  
Guardian angels God will lend thee  
All through the night.  
Soft the drowsy hours are creeping,  
Hill and vale in slumber steeping;

ing of conscience, the voice of the Divine. The Freudian anthropology may be entirely erroneous. The Freudian psychology as a description of concealed, unnamed, anti-social purposes generally prevalent may be mostly erroneous. Yet that psychology as patterning the religious import of sex scruples need not be erroneous. Since, according to the Freudians, every woman who attracts a man is his "mother surrogate," the Oedipus Complex may be true as a religio-psychological paradigm, though untrue as anything else. It may be an invaluable *als ob*.

Again who knows how much resistance to various social reforms may be but a displaced resistance to some unnamed mental obstacle! Bringing that obstacle into designation and control, as psychoanalysis claims to do, might be the correction of the displacement. That much of the barrier to social betterment might thus be removed.

It was discouraging to miss among the contents of our Part One any mention of the bearing on modern religious and synagogal phenomena of such familiar factors as the animosities that lie outside of the Oedipus scheme, such as personal grievances, racial, national and class antipathies. One would also wish to know about the ritual and ecclesiastical consequences of self seeking and self aggrandizement whether of narcissistic or other derivation. One would further desire more light on the connection between sex and reverence, a connection intimated already by Riggall.<sup>716</sup> Such features as those of silence and of submissiveness are striking points of resemblance between them.

Love alone his watch is keeping  
All through the night.

"Hark! a solemn bell is ringing,  
Clear through the night;  
Thou, my love, art heavenward winging  
Home through the night.  
Earthly dust from off thee shaken,  
Soul immortal, thou shalt waken,  
With thy last dim journey taken,  
Home through the night."

<sup>716</sup> R. M. Riggall, *Religion and Psychoanalysis* (London, 1920), p. 19.

There is also the phenomenon of doctrinal and ritual selection—Jews who follow the dietary laws at home yet flout them outside of the home or who violently object to holding a religious service on any day except the traditional Sabbath although themselves spending the traditional Sabbath at their customary occupations; or Jews who are punctiliously orthodox in their observance of Atonement Day or of the mourning customs although totally unobservant in other particulars. These and doubtless many others are among the problems that are yet to be handled.

Not only must the socially inadmissible purposes of the laity be diagnosed. The motives of the leaders are in equal need of control. Nothing but genuinely scientific inquiry can uncover the extent, the nature and the injuriousness of our "suppressed desires." There dawns upon us the promise of something better than the lot of the New Testament writer who complained, "Our wrestling is not against flesh and blood but against the principalities, against the powers . . . against spiritual hosts of wickedness in heavenly places" (Eph. 6.12). Once the struggle is brought into the open, flesh will have to cope with nothing worse than flesh. The person who will contribute money for religio-psychoanalytic inquiry will have entered upon the way of all ways in which religion can be furthered by money. As Jews we covet for our religion the privilege of being the pioneering domain and for our own people the honor of being the first to devote to this captivating enterprise the resources of their material prosperity.

## APPENDIX I

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## ADDENDA TO "THE BOOK OF THE COVENANT, PART III—THE HUQQIM"

(Above pp. 1-150)

JULIAN MORGENSTERN, Hebrew Union College, Cincinnati, Ohio

To p. 41, Note 48: From all this it follows unquestionably that the curse in Deut. 27.22, in which the expression  $\text{אָבִיו אִו בַּת אִמּוֹ}$  likewise occurs, and where, moreover, the sin in question, for which the curse is invoked, is not that of the open contraction of a marriage, once regarded as proper but now held to be incestuous and forbidden, but is rather that of unnatural lust between half-brother and half-sister, conducted quite naturally in strictest secrecy, is directly dependent upon Lev. 20.17 in its present, reinterpreted, full form. For the import of this cf. note 159.

To p. 123, Note 151a: And also to the Priestly *mišpat* in Lev. 20.9, and to the curse in Deut. 27.16. For the import of this last cf. note 159.

To p. 129, Note 159: The same conclusion holds true with regard to the curse in Deut. 27.21. This too, a moment's consideration will show, generalizes the two concepts of male and female human intercourse with a domestic animal. Notice also the expression  $\text{כָּל בְּהֵמָה}$ , just as in Lev. 18.23 and 20.15f. It would seem from this that the curse in Deut. 27.21 is dependent directly upon Lev. 20.15f., just as is Ex. 22.18, rather than being dependent directly upon the latter passage.

Moreover, there can be no question that quite a number of the curses listed in Deut. 27.15-26 are directly related, in one way or another, to legislation in considerable part also found in Lev. 20, which we have already had occasion to analyze, and the relationship of which to the two little groups of *huggim* and pseudo-*huggim*, with which we are concerned in this study, we have already determined. The full import of this it will be well to consider here, since the solution of this problem will, it can hardly be denied, determine beyond all question the approximate date of composition, and with this, of course, the religious motivation and background of the body of curses in Deut. 27.15-26, a question which has long been disputed by Biblical scholars, and this with a most surprising range of opinion.

In the first place, the key to the right understanding of this little body of curses, a fact already emphasized by scholars, is the realization that they deal in the vast majority of cases with secret sins, the commission of which is altogether unknown to the general public, sins for the most part of extremely defiling character, not only for the actual participants therein but also, as we have shown, with the full import thereof, for the sanctuary, the land and the people. Inasmuch as these sins are committed in secret, and the culprits are therefore not known, and it is not even known publicly that they have been

committed, and yet they have and their defiling effect is beyond all question, no public, expiatory execution can be held in order to purify land, people and sanctuary of their defiling effects. Therefore, unless this unfortunate situation could be met in some other equally, or almost equally efficacious way, the full effects thereof, in permanent defilement of land, sanctuary and people, with the possible withdrawal of Yahwe from the midst of this defilement, must be feared. Manifestly the imprecation of a heavy curse in Yahwe's name upon every such secret sinner was the only possible way in which the people could, formally at least, disclaim all responsibility for the sin, which they could not control, and for which they could not even make specific expiation through the execution in the established manner of the criminal. Moreover, this ceremony served, as it were, to throw upon Yahwe Himself the responsibility for the expiation of the sin and the nullification of its consequences; for unquestionably, whatever may have been the original and primary character and working of a curse, by the comparatively late date of the composition of this body of curses, with their manifest, underlying purpose, it was fully felt that it was Yahwe alone who, as the one, supreme deity, brought about all the effects of the curse, both as punishment and as theoretical expiation. Beyond all doubt this is the import of this ritual of cursing.

That the majority, if not actually all of these sins are secret offenses is to be inferred first of all from the emphasis upon the word סֵתֶר in vv. 15 and 24. The two offenses referred to in these two verses are such primarily not merely because of their secret character. On the contrary, the offense dealt with in v. 15, the making of an idol, violates one of the basic principles of the religion of Israel, and is specifically forbidden in every covenant code of laws, from K (Ex. 34.17; cf. "The Oldest Document of the Hexateuch"), through C (Ex. 20.23; cf. *ibid.*), to the traditional Decalogue (Ex. 20.4; Deut. 5.8). It is true that the entire Biblical legislation seems to contain no law whatever which deals with this sin concretely and provides a specific punishment for it. This omission is strange indeed, particularly in the light of the character, content and manifest purpose of very much of the post-exilic legislation, as we have determined these. But be that as it may, there can be little question that this offense was committed frequently, even in the post-exilic period, and that the treatment of it from the standpoint of Yahwe was not confined merely to prophetic denunciation and sarcasm (cf. Is. 44.9ff.), but came in time to consist of some drastic procedure, presumably expiatory execution by means of stoning at the hands of the representatives of the people at large; for unquestionably this was the arch-offense against Yahwe. Such an offense would ordinarily be committed publicly, so that in consequence to deal with it would be a comparatively simple matter. Unquestionably therefore some adequate legislation, providing a specific and extreme punishment for this arch-sin when committed in customary public manner must have existed, even though, for some inexplicable reason, it is not contained in the Bible. But it is clear that v. 15 here is dealing, as it expressly states, with this offense only when committed in secret, perhaps in the various rites of foreign origin which were apparently becoming increasingly current in certain circles of

post-exilic Jewry, and to which perhaps Is. 57.8 may refer, rites associated with certain foreign mystery cults.

Likewise v. 24 deals with the very same crime as does Ex. 21.12 in its present Priestly form. The difference between the *hoq* there and the curse here is only that the former deals with the case in which the murderer is known, and for whom therefore it provides the punishment of ritual, expiatory execution. The curse, on the other hand, deals with the case of this crime being committed secretly, so that the actual murderer can never be ascertained, nor ritual, expiatory execution be carried out. Manifestly the curse here supplements the *hoq* in Ex. 21.12 in such manner that every possible case of murder is now dealt with and its expiatory ritual is now effectively provided for. Moreover, the direct dependence of Deut. 27.24 upon Ex. 21.12 is indicated by the use of the word מכה in the specifically Priestly, technical connotation, "to slay by any violent means" (cf. above, note 147; cf. also להכות נפש in v. 25 here).

Furthermore, even though the word בסתר is not used in connection with them, there can be no question that the sins dealt with in vv. 17, 19, 20-23 and 25 are also of a strictly secret character, while that dealt with in v. 18 is presumably so likewise. The sin recorded in v. 17 could achieve its purpose only if and so long as it were kept strictly secret. The same condition holds true of the two sins recorded in vv. 19 and 25 and apparently also of that recorded in v. 18. V. 17 is, of course, related to, if not directly dependent upon Deut. 19.14, which is, as we have already shown ("The Book of the Covenant," II, 75), a late insertion into that particular place. V. 19 is, in turn, related to Deut. 24.17, the comparatively late date of which will be established in our treatment of the *mişwoi* in Part IV of this study, (to appear in a subsequent volume of this ANNUAL). V. 18 is related to Lev. 19.14 (H). And v. 25 is obviously related to Deut. 16.19, the secondary and late character of which is unmistakable. (Note that v. 18 deals with the judges in the third person and in the plural, and is the introduction to the legislation for judicial procedure in 17.8ff. [cf. "The Book of the Covenant," II, 132ff.], while vv. 19-20 address the judges directly in the second person singular and obviously interrupt the logical connection between 16.18 and 17.8ff.)

Even more significant are the implications of vv. 20-23. With v. 21 we have already dealt, and established its dependence upon Lev. 18.23 and 20.16 and its relationship to Ex. 22.18. V. 20 is directly related to Deut. 23.1, a law certainly out of place in its present setting, or rather, as we shall show elsewhere (cf. the article to appear in the next volume of this ANNUAL), borrowed in its present wording from some current Priestly law-corpus and inserted at a comparatively late date into its present position for a very obvious and significant purpose. It is also indirectly dependent upon Lev. 18.8 and 20.11 (H). V. 23 is in turn dependent upon Lev. 18.17, but, as we shall see shortly, very significantly it reverses the order of citation of the women in question. Lev. 18.17 forbids marriage with both mother and daughter, whereas Deut. 27.23 evokes a curse upon the man who has sexual intercourse with the mother of his wife. The two laws are of altogether different import. Unquestionably, despite a certain ambiguity of language, Lev. 18.17

seeks to prohibit a type of marriage which up to that time had not been considered improper and illegitimate, and which, not improbably, had even been not altogether uncommon under established inheritance laws, according to which a son inherited all the wives and concubines of his father, with the single exception of his own mother. For this reason no doubt it puts the older woman, the mother, first in order. It says practically this: If you are already married to a woman you may not marry her daughter also; or vice versa, if you are already married to a woman, you may not acquire her mother, as a wife or as a concubine, either through inheritance or in any other manner. There seems to be here no consideration whatever of the satisfaction of unnatural lust between a man and a woman, normally forbidden to him, but rather only an attempt to regulate by law one, or perhaps two types of marriage which had previously been regarded as proper and legitimate. Deut. 27.23, however, as the language indicates, deals only with the question of the satisfaction of unnatural lust between a man and the mother of his wife. There is no question of marriage between them, as in Lev. 18.17, but only of unnatural lust, precisely as in v. 21. This is an altogether different matter.

Similarly, and most indicative of all, is the sexual relationship dealt with in v. 22. This is precisely the same relationship as is dealt with in Lev. 18.9 and 20.17. But, as the significant expression, *בֵּת אִמּוֹ אוֹ בֵּת אִמּוֹתָיו*, indicates, this curse here is dependent directly upon Lev. 20.17 in its present, late, expanded form (cf. above, pp. 38-42, and p. 132, note). It deals not at all with the basic consideration of the older legislation, viz. the prohibition of the marriage of a man with his half-sister, originally in Israel regarded as legitimate, but deals only with the question of the satisfaction of unnatural lust between half-brother and half-sister, unnatural now because the sexual union of half-brother and half-sister, even when the offspring of different mothers, had long since been established as incestuous and forbidden. We have seen that the formulation of the law in Lev. 20.17 in its present expanded form is of comparatively late date; and if so, then certainly the still later date of Deut. 27.22 must be beyond all question.

From all this it is clear that all four curses in vv. 20-23 have one thought in common. They do not deal at all with the question of prohibited marriages, as do Lev. 18 and 20 in their original H form, but only with the question of the satisfaction of unnatural lust. And certainly this, in all its phases, was a sin of the most secret character. Unquestionably it is this consideration which occasioned the mention of these four specific sins in this list of secret sins for which the curse of Yahwe is invoked.

Finally Deut. 27.16 is unquestionably related to the *huqqim* in Ex. 21.15 and 17 and to the *mišpaṭ* in Lev. 20.9 (cf. above, note 151a). It is more general than any of these laws, for, instead of the specific crimes of striking or cursing of parents, dealt with there, it deals with the more general offense of "putting parents to shame," "holding parents in light esteem." But unquestionably it too contemplates acts committed in the main in the privacy of the home and of family life, which, unless the parents themselves would make them public through charges brought formally against their own offspring, an extremely



remote and infrequent procedure (cf. above, pp. 123-125), would remain eternally secret, but which would none the less defile people, land and sanctuary in the sight of Yahwe. Unquestionably the very general character of this curse establishes its character and import as later than those of the more specific laws in Ex. 21.15 and 17 and Lev. 20.9.

From all this it is convincingly clear that every one of the curses enumerated in Deut. 27.15-25 is of late and more or less directly dependent character. (The curse in v. 26 is manifestly of general and summarizing character, and seemingly likewise conceives of the *Torah*, i. e. the Pentateuch, as a unit [cf. above, p. 74]. Its late and editorial character is therefore self-evident.) From this it follows necessarily that this entire body of curses must be of comparatively quite late composition, the product of a relatively late moment in the post-exilic Biblical period. Their obvious purpose, it is now perfectly clear, since without exception every one of the sins enumerated is unmistakably of such character, is to provide as theoretically efficient an expiatory procedure for secret sins as could possibly be conceived of. This was accomplished by invoking the curse of Yahwe upon such secret sinners, in other words by transferring to Yahwe Himself the responsibility for the punishment of the secret sinner and the expiatory effects believed to result regularly from such punishment. Theoretically the procedure was logical and effective; practically no other procedure was possible.

One other thought suggests itself here, a thought which must for obvious reasons remain for the present a hypothesis rather than a clearly demonstrable fact. Manifestly the concept of expiation of secret sins through the curse, and particularly the consideration which lies behind this concept, viz. the urgent necessity of making adequate expiation for all sins which might defile land, people and sanctuary, is closely related to the fundamental principle of the Day of Atonement, viz. the rites of expiation, on behalf of high-priest, priesthood in general, people at large and sanctuary, for the sins committed by Israel during the course of the year. Actually Lev. 16 makes no distinction between sins of different kinds and degrees, and this, seemingly, because it is dealing directly, not so much with the sins themselves, as with their defiling effects; and these were invariably the same, regardless of the character of the sin itself, and the need of expiation of all sins, regardless of their primary character, was equally urgent. But the subsequent liturgy for the Day of Atonement distinguished, quite properly, between two main classes of sin, those committed wittingly and those committed unwittingly, and then went on to distinguish further between two subdivisions of the sins committed wittingly, viz. those committed openly and those committed secretly.

Precisely this last is the character also of the sins dealt with in the list of curses in Deut. 27.15-26. The question arises therefore, whether this ritual of the ceremonial recital of these curses by the people, the origin of which at a comparatively late date in the post-exilic period we have established, may not have some direct relation to the ritual, just as it certainly has to the basic thought and purpose, of the Day of Atonement. The origin of the Day of Atonement, as a specific development out of the original New Year's Day upon the



10th of the seventh month, in the period following Ezra and Nehemiah, we have already established with absolute certainty (cf. "The Three Calendars of Ancient Israel," *HUCA*, I [1924]). It is to precisely this same period that the ritual of these curses belongs. Can it be that actually we have here a fragment of the original ritual of the Day of Atonement as it was observed in the post-exilic Temple at Jerusalem? Only a minute analysis and interpretation of this entire and very fragmentary, complex and difficult chapter, and with this ■ determination of the specific meaning of the phrase ביום ההוא and its variants, recurring with surprising frequency in the chapter, can give a positive answer to this interesting and important question. This task must be reserved for some other more opportune occasion. It suffices to have established in this long note the quite late date and character of vv. 15-26, and with this the additional fact that they must therefore necessarily constitute a separate and distinct literary unit in this composite chapter. (This note was written during ■ summer vacation, away from access to a library or books of reference; therefore the paucity of reference in it to the works and opinions of other scholars. To have waited to obtain these would have delayed the appearance of this ANNUAL by at least two months. I trust therefore that this deficiency, otherwise inexcusable, will be understood and pardoned.)

To p. 134, Note 167: A very plausible interpretation of the passage is suggested by the following procedure in Southern Arabia today, recorded by Bertram Thomas (*Arabia Felix*, 88): Death is often attributed to the spell of some suspected witch, who is forthwith persecuted. A tribesman of Beit ash Shaikh . . . had as a young man killed his widowed cousin for a witch . . . an act which received public approbation, if indeed it was not actuated by public opinion; a case occurred within a month of my arrival, where an alleged witch had been done to death by unknown hands. It appeared that she had long been accused, but had proclaimed her innocence and had submitted herself to the ordeal of fire. She emerged from the test vindicated, but even this failed to convince her tribe. It was a case of lynch-law in its most elementary form.—In this connection too the Babylonian procedure with persons suspected of being witches, recorded in HC, might well be cited. A person suspected of witchcraft was subjected to the water ordeal; she was cast into the river; if she lost her life through drowning, her guilt was established; if, however, she escaped, her innocence was proved, in theory at least. Parallel practices were undoubtedly wide-spread in the ancient Semitic world. Quite probably therefore our pseudo-*hoq* may be regarded as a record of a similar practice. It does not explicitly command the official, state execution of the suspected witch, or perhaps of the one whose guilt had been established by processes of trial by ordeal, but it does sanction, and even to a degree make mandatory the private execution of the witch, with the unquestionable implication that in such case there shall be no blood-guilt attaching to the executioner. The procedure in Israel must accordingly have been quite similar to that of Southern Arabia, recorded by Thomas. For this reason therefore לא חתיה was used instead of the customary מות חומה, with its implication of state, expiatory execution.

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